

SESSION LAWS
OF
HAWAII
PASSED BY THE
TWENTY-SEVENTH STATE LEGISLATURE
STATE OF HAWAII

REGULAR SESSION
2013

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PREFACE

This volume contains all of the laws enacted by the Hawaii State Legislature during the Regular Session of 2013.

The text of the laws is printed in full except for laws repealing existing statutes. Statutory material that is being repealed is either bracketed or bracketed and stricken. New material is indicated by underscoring. As authorized by Section 23G-16.5, Hawaii Revised Statutes (HRS), the text is edited to omit the bracketed material for HRS sections being repealed in their entirety and to omit the underscoring for new HRS sections. With the exception of the foregoing and certain obvious typographical errors that have been corrected, the text of the laws appears as enacted.

Explanatory notes appear at the end of the corresponding laws. The notes clarify editorial changes and inconsistencies in text.

Charlotte A. Carter-Yamauchi
Revisor of Statutes

Honolulu, Hawaii
July 15, 2013

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D – Democrats	44
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**Session Laws of Hawaii
Passed By The
Twenty-Seventh State Legislature
Regular Session
2013**

ACT 1

H.B. NO. 26

A Bill for an Act Making Appropriations to Provide for the Expenses of the Legislature, the Auditor, the Legislative Reference Bureau, the Ombudsman, and the Ethics Commission.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$7,464,744 or so much thereof as may be necessary to the senate for the following expenses:

- (1) The sum of \$6,477,244 for defraying any and all session and non-session expenses of the senate up to and including June 30, 2014, including the 2013 regular session, twenty-seventh legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 2013 and 2014 regular sessions;
- (2) The sum of \$900,000 for defraying the expenses of the legislative information system for cost items such as hardware, software, consultants, installation, materials, supplies, and other related costs associated with the legislative information system that have been or will be incurred; and
- (3) The sum of \$87,500 for defraying the cost of the legislative broadcasting program to pay for the production and distribution of television broadcasts of legislative proceedings.

The sum appropriated in this section shall be expended by the senate.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$10,569,287 or so much thereof as may be necessary to the house of representatives for the following expenses:

- (1) The sum of \$9,793,363 for defraying any and all session and non-session expenses of the house of representatives up to and including June 30, 2014, including the 2013 regular session, twenty-seventh legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 2013 and 2014 regular sessions;
- (2) The sum of \$688,424 for defraying the expenses of the legislative information system for cost items such as hardware, software, consultants, installation, materials, supplies, and other related costs as-

ACT 1

sociated with the legislative information system that have been or will be incurred; and

- (3) The sum of \$87,500 for defraying the cost of the legislative broadcasting program to pay for the production and distribution of television broadcasts of legislative proceedings.

The sum appropriated in this section shall be expended by the house of representatives.

SECTION 3. Payment of expenses of the senate during the interim between the 2013 and 2014 regular sessions shall be made only with the approval of the president of the senate, and payment of expenses of the house of representatives during the interim between the 2013 and 2014 regular sessions shall be made only with the approval of the speaker of the house of representatives.

SECTION 4. Before January 15, 2014, the senate and the house of representatives shall each have their accounts audited, and a full report of the respective audits shall be presented to the senate and to the house of representatives convening on January 15, 2014.

SECTION 5. Unless otherwise prescribed by law, the expenses of any member of the legislature while traveling abroad on official business of the legislature shall be \$145 a day as authorized by the president of the senate and the speaker of the house of representatives.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,823,849 or so much thereof as may be necessary to the office of the auditor for the following expenses:

- (1) The sum of \$2,673,849 for defraying the expenses of the office of the auditor during fiscal year 2013-2014; and
- (2) The sum of \$150,000 during fiscal year 2013-2014 for:
 - (A) Performing special studies;
 - (B) Improving capabilities for planning, programming, and budgeting;
 - (C) Fulfilling other special requests made of the auditor by the legislature or jointly by the president of the senate and the speaker of the house of representatives;
 - (D) Legislative studies and contractual services for those studies; and
 - (E) Such other purposes as may be determined by the joint action of the president of the senate and the speaker of the house of representatives.

The sum appropriated in this section shall be expended by the auditor.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,550,828 or so much thereof as may be necessary to the office of the auditor during fiscal year 2013-2014 to be deposited into the audit revolving fund established pursuant to section 23-3.6, Hawaii Revised Statutes.

SECTION 8. There is appropriated out of the audit revolving fund the sum of \$6,000,000 or so much thereof as may be necessary to the office of the auditor during fiscal year 2013-2014 for the office to conduct or complete its audit functions as provided by law.

The sum appropriated in this section shall be expended by the auditor.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,116,038 or so much thereof as may be necessary to the legislative reference bureau for defraying the expenses of the legislative reference bureau during fiscal year 2013-2014, including equipment relating to computer systems programming and operations.

The sum appropriated in this section shall be expended by the legislative reference bureau.

SECTION 10. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,130,728 or so much thereof as may be necessary to the office of the ombudsman for defraying the expenses of the office during fiscal year 2013-2014.

The sum appropriated in this section shall be expended by the ombudsman.

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$909,531 or so much thereof as may be necessary to the office of the state ethics commission for defraying the expenses of the office during fiscal year 2013-2014.

The sum appropriated in this section shall be expended by the state ethics commission.

SECTION 12. Except for moneys in the audit revolving fund, as of the close of business on June 30, 2014, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 13. Each section of this Act is declared to be severable from the remainder of this Act.

SECTION 14. This Act shall take effect upon its approval.

(Approved February 14, 2013.)

ACT 2

S.B. NO. 1174

A Bill for an Act Making Emergency Appropriations for the Operations of the Office of the Lieutenant Governor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. The recent appointment of the former lieutenant governor to the United States Senate and subsequent succession of a member of the legislature to the position of lieutenant governor resulted in unanticipated additional costs for the 2012-2013 fiscal year.

The purpose of this Act is to appropriate funds as an emergency appropriation for costs associated with the operations of the lieutenant governor's office.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$126,690 or so much thereof as may be necessary for

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fiscal year 2012-2013 to be used by the office of the lieutenant governor (LTG 100).

The sum appropriated shall be expended by the office of the lieutenant governor for the purposes of this Act.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$85,654 or so much thereof as may be necessary for fiscal year 2012-2013 to be used by the sheriff (PSD503) for the purpose of providing protection to the lieutenant governor.

The sum appropriated shall be expended by the department of public safety for the purposes of this Act.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$105,000 or so much thereof as may be necessary for fiscal year 2012-2013 to be used for public works – planning, design, & construction (AGS221) for costs related to the operations of the office of the lieutenant governor.

The sum appropriated shall be expended by the department of accounting and general services for the purposes of this Act.

SECTION 6. This Act shall take effect upon its approval.

(Approved March 15, 2013.)

ACT 3

H.B. NO. 915

A Bill for an Act Relating to Employment Security Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 383, Hawaii Revised Statutes, is amended by adding to part III a new section to be appropriately designated and to read as follows:

“§383- Income tax refund offsets. Effective April 1, 2013, any employer in default of contributions, advance payments, or reimbursement may be subject to offset of federal tax refund payments of the amount owed, including penalties, interest, costs, and administrative fees.”

SECTION 2. Section 383-33, Hawaii Revised Statutes, is amended to read as follows:

“§383-33 Determinations, in general. (a) A determination upon a claim filed pursuant to section 383-32 shall be made promptly by a representative of the department of labor and industrial relations authorized to make determinations upon claims and shall include a statement as to whether and in what amount the [claimant] individual is entitled to benefits for the week with respect to which the determination is made and, in the event of a denial, shall state the reasons therefor. A determination with respect to the first week of a benefit year shall also include a statement as to whether the [claimant] individual has been paid the wages required under section 383-29(a)(5) and, if so, the first day of the benefit year, the [claimant's] individual's weekly benefit amount, and the maximum total amount of benefits payable to the [claimant] individual with respect to such benefit year.

(b) If any employer fails to furnish the information necessary to determine whether and in what amount the ~~[claimant]~~ individual is entitled to benefits in the manner and within the time specified by this chapter or regulations of the department, the department shall make a determination based upon such information as is available. ~~[In]~~ Prior to October 1, 2013, in the absence of fraud, any redetermination made on the basis of information furnished by the employer after the prescribed period shall be effective only as to benefits paid after the week in which the information was received. In the absence of a showing by the employer satisfying the department that the employer could not reasonably comply with the department's requirement, any benefits overpaid prior to the effective date of the redetermination as a result of the employer's failure to furnish the information as required shall be charged entirely against the account of the non-complying employer; provided that the overpaid benefits shall not, in any event, be recoverable from the ~~[claimant]~~ individual. Any redetermination issued on or after October 1, 2013, on the basis of information furnished by the employer or the agent of the employer after the prescribed period shall be effective upon the date of the redetermination. The entire amount of benefits overpaid due to the employer's or agent of the employer's failure to respond timely or adequately to the agency's request for information as required shall be charged against the account of the noncomplying employer."

SECTION 3. Section 383-44, Hawaii Revised Statutes, is amended to read as follows:

"§383-44 Recovery of benefits paid. (a) Any ~~[person]~~ individual who has received any amount as benefits under this chapter to which the ~~[person]~~ individual was not entitled shall be liable for the amount unless the overpayment was received without fault on the part of the recipient and its recovery would be against equity and good conscience. Notice of redetermination in these cases shall specify that the ~~[person]~~ individual is liable to repay to the fund the amount of overpaid benefits, the basis of the overpayment, and the week or weeks for which the benefits were overpaid.

(b) Determinations or redeterminations dated on or after October 1, 2013, that an individual has been overpaid benefits under any state or federal unemployment compensation program and is disqualified under section 383-30(5) shall include a penalty assessment amount equal to fifteen per cent of the overpaid amount. Penalty assessments collected under this section shall be deposited in the unemployment compensation fund.

~~[(b)]~~ (c) The ~~[person]~~ individual liable, in the discretion of the department, shall ~~[either]~~ repay the overpaid amount and the penalty assessment amount to the department for the fund or have the overpaid amount only deducted from any future benefits payable to the ~~[person]~~ individual under this chapter within two years after the date of mailing of the notice of redetermination or the final decision on an appeal from the redetermination. Effective April 1, 2013, the overpaid benefits amount and the penalty assessment amount, costs, and administrative fees may be deducted from federal income tax refunds.

~~[(e)]~~ (d) Notwithstanding any other provision of this chapter, the department, by agreement with another state or the United States as provided under section 303(g) of the Social Security Act, may recover any overpayment of benefits paid to any individual under the laws of this State or of another state or under an unemployment benefit program of the United States. Any overpayments subject to this subsection may be deducted from any future benefits payable to the individual under the laws of this State or of another state or under an unem-

ACT 3

ployment program of the United States. The penalty assessment amount shall not be subject to recovery by deduction from future benefits payable.

~~[(d)]~~ (e) In any case in which under this section an individual is liable to repay any amount to the department, the ~~[amount]~~ overpaid benefits amount, the penalty assessment amount, costs, and administrative fees shall be collectible without interest by civil action in the name of the State by the attorney general.”

SECTION 4. Section 383-123, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Withdrawals. Moneys requisitioned from the State’s account in the unemployment trust fund shall be used exclusively for the payment of benefits ~~[and for]~~, refunds of contributions pursuant to section 383-76 and section 383-7(a)(6), and for payment of fees authorized under section 6402(f) of the Internal Revenue Code, except that moneys credited to this State’s account pursuant to section 903 of the Social Security Act, as amended, shall be used exclusively as provided in subsection (b). The director of finance shall from time to time, with the approval of the department of labor and industrial relations in accordance with rules prescribed by the comptroller of the State, requisition from the unemployment trust fund such amounts, not exceeding the amount in the State’s account, as it deems necessary for the payment of benefits and refunds of contributions for a reasonable future period. The moneys shall be deposited in the benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of moneys in their custody. All benefits and refunds of contributions shall be paid from the fund upon warrants drawn upon the director of finance by the comptroller of the State supported by vouchers approved by the department. Any balance of moneys requisitioned from the unemployment trust fund that remains unclaimed or unpaid in the benefit account after the expiration of the period for which the sums were requisitioned shall either be deducted from estimates for, and may be used for the payment of, benefits and refunds during succeeding periods or, in the discretion of the department, shall be redeposited with the Secretary of the Treasury of the United States, to the credit of this State’s account in the unemployment trust fund, as provided in section 383-122.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 6. This Act, upon its approval, shall take effect on April 1, 2013.

(Approved April 1, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 4

H.B. NO. 941

A Bill for an Act Relating to the Natural Area Reserves System Commission.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 195-6, Hawaii Revised Statutes, is amended to read as follows:

“§195-6 Natural area reserves system commission. There shall be a natural area reserves system commission, hereinafter called the “commission.”¹ The commission shall consist of thirteen members who shall be appointed in the manner and serve for the term set in section 26-34. Six of the members of the commission shall be persons possessing scientific qualifications as evidenced by an academic degree in wildlife or marine biology, botany, forestry, ecology, resource management, biogeography, zoology, or geology; one member shall be a person possessing membership in a hiking organization organized in the State; ~~[and] one member shall be a person possessing membership in a hunting organization organized in the State[-]; and one member shall be a person possessing a background in native Hawaiian traditional and customary practices.~~ The chairperson of the board of land and natural resources, ~~[the superintendent of education,]~~ the director of the office of planning, the chairperson of the board of agriculture and the president of the University of Hawaii, or their designated representatives, shall serve as ex officio voting members. The governor shall appoint the chairperson from one of the appointed members of the commission. The members shall receive no compensation for their services on the commission but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of their duties.

The commission shall be a part of the department for administrative purposes as provided in section 26-35.

Any action taken by the commission shall be by a simple majority of its members. Seven members of the commission shall constitute a quorum to do business.

The commission may engage employees necessary to perform its duties, including administrative personnel, as provided by section 26-35.

The commission shall adopt rules guiding its conduct and shall maintain a record of its activities and actions.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 3, 2013.)

Note

1. So in original.

A Bill for an Act Relating to Mammography Reporting.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

“§321- Breast density mammography results; report and notification. (a) Beginning January 1, 2014, every health care facility in which a mammography examination is performed shall provide a mammography report and notification to each patient who is categorized by the facility as having dense breast tissue. The notification shall include in the summary of the mammography report sent to the patient, the following information, pursuant to the federal Mammography Quality Standards Act:

“Your mammogram shows that your breast tissue is dense. Dense breast tissue is very common and is not abnormal. However, dense breast tissue can make it harder to find cancer on a mammogram and may also be associated with an increased risk of breast cancer. This information about the result of your mammogram is given to you to raise your awareness. Use this information to talk to your physician as to whether, based on your risk, more screening tests might be useful. A report of your results was sent to your physician.”

(b) For purposes of this section, “dense breast tissue” means heterogeneously dense or extremely dense tissue as defined in nationally-recognized guidelines or systems for breast imaging reporting of mammography screening, including the Breast Imaging Reporting and Data System of the American College of Radiology, and any equivalent new terms, as such guidelines or systems are revised.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 4, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Offers in Compromise.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§231- Offers in compromise. (a) Requests for compromises authorized under section 231-3 shall be submitted to the department and accompanied by the following:

(1) In the case of a lump-sum offer in compromise, twenty per cent of the amount of the offer; or

- (2) In the case of a periodic payment offer in compromise, payment in the amount of the first proposed installment. Any failure to make an installment other than the first installment due under the offer in compromise, during the period the offer is being evaluated by the department, may be treated by the department as a withdrawal of the offer in compromise.
- (b) Where an offer in compromise is not accepted by the department for any reason, payments made under subsection (a) shall be applied to the tax first assessed or other amounts imposed under title 14.
- (c) The department may waive the payment requirements under subsection (a) for individual taxpayers who meet the low-income certification guidelines published by the Internal Revenue Service for the period in which the request for compromise has been submitted.
- (d) The director of taxation shall prepare any forms that may be necessary to meet the requirements of this section. In addition to any other administrative requirements, the director of taxation may also require the taxpayer to furnish reasonable information to ascertain the validity of the request for payment waiver made under subsection (c).
- (e) The department may adopt rules pursuant to chapter 91 necessary to effectuate the purposes of this section.
- (f) As used in this section:
 "Lump-sum offer in compromise" means any offer of payments made in five or fewer installments.
 "Periodic payment offer in compromise" means any offer of payments made in six or more installments."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved April 5, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 7

H.B. NO. 1089

A Bill for an Act Relating to Kalo Appreciation Month.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Kalo (*Colocasia esculenta*), the Hawaiian word for taro, is a culturally significant plant to the kanaka maoli, Hawaii's indigenous peoples, and to the State. In 2008, the legislature recognized kalo's role in the State's history and well-being by designating kalo as the state plant. As Hawaiian culture and the sustainability movement have flourished over the past few decades, so has the resurrection of kalo cultivation and its popular byproduct, poi.

The legislature finds that while varieties of kalo grow in almost all tropical regions of the world, Hawaii seems to have some of the strongest kalo tradi-

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tions. Kalo is a plant of unique and distinctive character that was brought to a higher state of cultivation in old Hawaii than anywhere else in the world. Native cultivation of kalo in Hawaii created more varieties of kalo that were more adaptable to varying conditions of locale, soil, and water than other kalo found anywhere else in Polynesia or the world.

The purpose of this Act is to designate the month of October as Kalo Appreciation Month to promote kalo cultivation and appreciation.

SECTION 2. Chapter 8, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§8- Kalo appreciation month. The month of October shall be known and designated as “Kalo Appreciation Month” to celebrate the strong kalo tradition in Hawaii and the cultural connection of native Hawaiians to kalo, the Hawaiian word for taro. This month is not and shall not be construed as a state holiday.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved April 9, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 8

H.B. NO. 1258

A Bill for an Act Relating to Aging.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 349-4, Hawaii Revised Statutes, is amended to read as follows:

“§349-4 Policy advisory board for elder affairs[-]; lifetime honorary kupauna. (a) There shall be a policy advisory board for elder affairs, appointed by the governor under section 26-34. The board shall advise the director in, but not limited to, the following areas:

- (1) The identification of issues and alternative approaches to solutions;
- (2) The development of position statements and papers;
- (3) Advocacy and legislative actions; and
- (4) Program development and operations.

The board shall consist of not less than twenty-one nor more than twenty-nine members, a majority of whom are over sixty years of age and who shall be selected on the basis of their interests and knowledge in and their ability to make contributions to the solution of problems relating to aging, and shall include at least one member from the county of Hawaii, one member from the county of Maui, one member from the county of Kauai, and one member from the city and county of Honolulu. There shall be nine members who shall serve as ex officio members and shall be chosen from among the heads of the following state agencies which provide services or programs affecting elders: health, human services, education, labor and industrial relations, University of Hawaii,

transportation, the state retirement system, the office of consumer protection, and, by invitation, the Hawaii representative of the United States Department of Health, Education and Welfare. Of the non ex officio members, one-third of the members shall be appointed for the term of four years, one-third for the term of three years, and one-third for the term of two years; and thereafter the terms of office of each member shall be four years. The members shall serve without compensation, but shall be paid their necessary expenses in attending meetings and carrying out the responsibilities of the board. The chairperson shall be elected annually from the nongovernmental members of the board. There shall be not less than twelve meetings of the board each year.

(b) The policy advisory board for elder affairs may honor a non ex-officio member by voting to award the member a lifetime honorary kupuna title at a meeting called for the purpose and attended by a quorum. The governor:

- (1) Shall take into consideration a person's receipt of a lifetime honorary kupuna title when considering the person's reappointment to the board; and
- (2) Notwithstanding section 26-34, may reappoint a person who holds the lifetime honorary kupuna title for continued terms over the person's lifetime."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 10, 2013.)

ACT 9

H.B. NO. 1282

A Bill for an Act Relating to Military Service.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. In 2005, the legislature passed Act 21, which provided for a Hawaii medal of honor to express the deep appreciation and gratitude of the people of Hawaii to the loved ones of members of the military who sacrificed their lives in defense of our nation and its freedom. Since 2006, there have been more than two hundred forty recipients of the Hawaii medal of honor.

The purpose of this Act is to clarify the eligibility requirements for the Hawaii medal of honor.

SECTION 2. Section 5-22, Hawaii Revised Statutes, is amended as follows:

1. By amending its title and subsection (a) to read:

"[§5-22] Hawaii medal of honor. (a) The Hawaii medal of honor may be awarded on behalf of the people of the State of Hawaii to an individual who has been killed in action[;] while:

- (1) Engaged in an action against an enemy of the United States;
- (2) Engaged in military operations involving conflict with an opposing foreign force;
- (3) Serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party; [or]

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- (4) Serving in a combat zone as designated by presidential order[.];
 - (5) Serving in direct support of military operations in a combat zone if that service is designated as such by the United States Department of Defense; or
 - (6) Performing duty subject to hostile fire or imminent danger if that duty qualifies the individual for special military pay as determined by the United States Department of Defense.
2. By amending subsection (c) to read:
- “(c) Individuals eligible to receive the Hawaii medal of honor include:
- (1) Members of the Hawaii national guard who were legal residents of Hawaii and were activated into service at the time they were killed in action;
 - (2) Members of the United States military reserves who were legal residents of Hawaii and were activated into service at the time they were killed in action;
 - (3) Members of the regular United States armed forces who were:
 - (A) Legal residents of Hawaii at the time they were killed in action; or
 - (B) Stationed in Hawaii by a proper order of the United States Department of Defense at the time they were killed in action; and
 - (4) Members of the Hawaii national guard[.] or United States military reserves who were activated into service, or members of the regular United States armed forces, who:
 - (A) Attended a public or private educational institution in Hawaii at some period during their lives; and
 - (B) Were killed in action.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 10, 2013.)

ACT 10

H.B. NO. 527

A Bill for an Act Relating to Uniform Maintenance Allowance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the uniform maintenance allowance for enlisted personnel established in 1967 is more than covered by the increased tax exemption for enlisted personnel enacted in Act 197, Session Laws of Hawaii 2004. Additionally, the legislature finds that most modern military service uniforms are made of wash and wear fabric that no longer requires dry cleaning, making the uniform maintenance allowance unwarranted.

The purpose of this Act is to repeal the uniform maintenance allowance for enlisted personnel.

SECTION 2. Section 121-41, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed and stricken.¹

SECTION 4. This Act shall take effect on July 1, 2013.

(Approved April 11, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 11

S.B. NO. 32

A Bill for an Act Relating to the Uniform Electronic Legal Material Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
UNIFORM ELECTRONIC LEGAL MATERIAL ACT**

§ -1 **Short title.** This chapter may be cited as the Uniform Electronic Legal Material Act.

§ -2 **Definitions.** As used in this chapter:

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

“Legal material” means, whether or not in effect:

- (1) The Constitution of the State of Hawaii;
- (2) The session laws of Hawaii;
- (3) The Hawaii Revised Statutes;
- (4) A state agency rule that has or had the effect of law;
- (5) Reported decisions of the following state courts: the supreme court of the State of Hawaii and the intermediate appellate court of the State of Hawaii; or
- (6) State court rules.

“Official publisher” means:

- (1) For the Constitution of the State of Hawaii, the revisor of statutes;
- (2) For the session laws of Hawaii, the revisor of statutes;
- (3) For the Hawaii Revised Statutes, the revisor of statutes;
- (4) For any administrative agency rules, the office of the governor;
- (5) For a state court decision included under paragraph (5) of the definition of “legal material”, the supreme court; or
- (6) For state court rules, the supreme court.

“Publish” means to display, present, or release to the public, or cause to be displayed, presented, or released to the public, by the official publisher.

“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

§ -3 **Applicability.** This chapter applies to all legal material in an electronic record that is designated as official under section -4 and first published electronically on or after the effective date of this chapter.

§ -4 **Legal material in official electronic record.** (a) If an official publisher publishes legal material only in an electronic record, the publisher shall:

- (1) Designate the electronic record as official; and
- (2) Comply with sections -5, -7, and -8.

(b) An official publisher that publishes legal material in an electronic record and also publishes the material in a record other than an electronic record may designate the electronic record as official if the publisher complies with sections -5, -7, and -8.

§ -5 **Authentication of official electronic record.** An official publisher of legal material in an electronic record that is designated as official under section -4 shall authenticate the record. To authenticate an electronic record, the publisher shall provide a method for a user to determine that the record received by the user from the publisher is unaltered from the official record published by the publisher.

§ -6 **Effect of authentication.** (a) Legal material in an electronic record that is authenticated under section -5 is presumed to be an accurate copy of the legal material.

(b) If another state has adopted a law substantially similar to this chapter, legal material in an electronic record that is designated as official and authenticated by the official publisher in that state is presumed to be an accurate copy of the legal material.

(c) A party contesting the authentication of legal material in an electronic record authenticated under section -5 has the burden of proving by a preponderance of the evidence that the record is not authentic.

§ -7 **Preservation and security of legal material in official electronic record.** (a) An official publisher of legal material in an electronic record that is or was designated as official under section -4 shall provide for the preservation and security of the record in an electronic form or a form that is not electronic.

(b) If legal material is preserved under subsection (a) in an electronic record, the official publisher shall:

- (1) Ensure the integrity of the record;
- (2) Provide for backup and disaster recovery of the record; and
- (3) Ensure the continuing usability of the material.

§ -8 **Public access to legal material in official electronic record.** An official publisher of legal material in an electronic record that is required to be preserved under section -7 shall ensure that the material is reasonably available for use by the public on a permanent basis.

§ -9 **Standards.** In implementing this chapter, an official publisher of legal material in an electronic record shall consider:

- (1) Standards and practices of other jurisdictions;
- (2) The most recent standards regarding authentication of, preservation and security of, and public access to, legal material in an electronic record and other electronic records, as promulgated by national standard-setting bodies;
- (3) The needs of users of legal material in an electronic record;

- (4) The views of governmental officials and entities and other interested persons; and
- (5) To the extent practicable, methods and technologies for the authentication of, preservation and security of, and public access to, legal material that are compatible with the methods and technologies used by other official publishers in this State and in other states that have adopted a law substantially similar to this chapter.

§ -10 **Uniformity of application and construction.** In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ -11 **Relation to Electronic Signatures in Global and National Commerce Act.** This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b)."

SECTION 2. This Act shall take effect on July 1, 2013.

(Approved April 11, 2013.)

ACT 12

S.B. NO. 479

A Bill for an Act Relating to the Membership of a Metropolitan Planning Organization.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 279E-3, Hawaii Revised Statutes, is amended to read as follows:

"§279E-3 Metropolitan Planning Organization membership. (a) The MPO shall consist of a policy committee and appropriate staff. The MPO policy committee shall consist of ~~thirteen~~ fourteen members. These members shall include:

- (1) Five members of the legislative body of the appropriate county;
- (2) Three members of the state senate:
 - (A) One of whom shall be chairperson of the senate committee with primary responsibility for transportation issues. In the event there is more than one chairperson of the senate committee with primary responsibility for transportation issues, the senate president shall identify the chairperson who shall serve on the MPO policy committee and who shall not be required to be a resident of the appropriate county; and
 - (B) Two of whom shall be residents of the appropriate county and shall be appointed by the senate president;
- (3) Three members of the state house of representatives:
 - (A) One of whom shall be the chairperson of the committee of the house of representatives with primary responsibility for transportation issues; and
 - (B) Two of whom shall be residents of the appropriate county and shall be appointed by the speaker of the house;
- (4) One member who shall be the director of transportation; ~~and~~

- (5) One member who shall be the director of the appropriate county department assigned primary responsibility for transportation planning[-]; and
- (6) One member who shall be the director of the authority for rapid or mass transportation, or a successor agency thereof, that operates public transportation on that island.
- (b) Each member of the MPO policy committee who is a member of the state legislature or the legislative body of the county shall serve for the same term as the term of office for which the member is elected. There shall be no remuneration for this service.
- (c) Vacancies in the MPO policy committee that occur shall be filled in the same manner in which the original member was appointed."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 16, 2013.)

ACT 13

H.B. NO. 872

A Bill for an Act Making an Emergency Appropriation to the Department of Human Services From the Nursing Facility Sustainability Program Special Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. Nursing facilities in the State face major financial challenges in providing quality health care for Hawaii residents due largely in part to the cost of care provided to medicaid enrollees. Payments for these clients do not cover the actual costs of care. To address this challenge, the nursing facility sustainability program special fund was established by Act 156, Session Laws of Hawaii 2012. Use of revenue from the nursing facility sustainability program special fund includes increasing medicaid payments to private nursing facilities. In order to avoid any delay in payment to the nursing facilities for fiscal year 2012-2013, advancement of moneys from the health care payments program (HMS 401) for those payments to private nursing facilities will be made until payments can be made from the special fund.

This emergency appropriation will ensure continued timely payments to the nursing facilities and will ensure that there will be no disruption in the provision of medically necessary services to program recipients.

SECTION 3. There is appropriated out of the nursing facility sustainability program special fund the sum of \$12,000,000, or so much thereof as may be necessary, for fiscal year 2012-2013, with such moneys to be used consistent with the uses authorized for the nursing facility sustainability program special fund, including the reimbursement of moneys advanced for those purposes in fiscal year 2012-2013 from the health care payments program (HMS 401).

SECTION 4. The sums appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 16, 2013.)

ACT 14

H.B. NO. 921

A Bill for an Act Relating to Proceedings Before the Labor and Industrial Relations Appeals Board.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 371-4, Hawaii Revised Statutes, is amended to read as follows:

“§371-4 Labor and industrial relations appeals board. (a) There is created a labor and industrial relations appeals board composed of three members nominated and, by and with the advice and consent of the senate, appointed by the governor for terms of ten years each, except that the terms of members first appointed shall be for six, eight, and ten years respectively as designated by the governor at the time of appointments. The governor shall designate the chairperson of the board, who shall be an attorney at law licensed to practice in all of the courts of this State. Each member shall hold office until the member's successor is appointed and qualified. Because cumulative experience and continuity in office are essential to the proper handling of appeals under workers' compensation law and other labor laws, it is hereby declared to be in the public interest to continue board members in office as long as efficiency is demonstrated. The members shall devote full time to their duties as members of the board. Effective July 1, 2005, the chairperson of the board shall be paid a salary set at eighty-seven per cent of the salary of the director of labor and industrial relations, and the salary of each of the other members shall be ninety-five per cent of the chairperson's salary.

(b) The board shall have power to decide appeals from decisions and orders of the director of labor and industrial relations issued under the workers' compensation law and any other law for which an appeal to the board is provided by law.

(c) For purposes of appeals to the board conducted pursuant to chapter 91, notwithstanding section 91-9.5, all parties shall be given written notice of hearing by first class mail at least fifteen days before the hearing.

(d) Unless otherwise provided by law, if service by first class mail is not made because the board or its agents have been unable to ascertain the address of the party after reasonable and diligent inquiry, the notice of hearing may be given to the party by publication at least once in each of two successive weeks in a newspaper of general circulation. The last published notice shall appear at least fifteen days prior to the date of the hearing.

(e) A decision concurred in by any two members shall constitute a decision of the board.

(f) A vacancy in the board, if there remain two members of it, shall not impair the authority of two members to act.

(g) If any member of the board is unable to act because of absence, temporary disability, or disqualification, the governor may make a temporary

appointment and the appointee shall have all the powers and duties of a regular member of the board.

(h) The chairperson of the appeal board shall be responsible for the administrative functions of the appeal board. The appeal board may:

- (1) Appoint an executive officer and hearings officer, and employ other employees as it deems necessary in the performance of its functions;
- (2) Set the duties and compensation of the executive officer, hearings officer, and employees; and
- (3) Provide for the reimbursement of actual and necessary expenses incurred by the executive officer, hearings officer, and employees in the performance of their duties, within the amounts made available by appropriations therefor.

Members of the appeal board and employees other than clerical and stenographic employees shall be exempt from chapters 76 and 89. Clerical and stenographic employees shall be employed in accordance with chapter 76.

(i) The board shall be within the department of labor and industrial relations for budgetary and administrative purposes only.

(j) The board may adopt rules ~~[and regulations]~~ within its area of responsibilities in accordance with chapter 91.

(k) The board may make or issue any order or take other appropriate steps as may be necessary to enforce its rules and orders and to carry into full effect the powers and duties given to it by law. The board may after notice and reasonable opportunity to be heard by the board:

- (1) Impose administrative sanctions; and
- (2) Impose monetary sanctions of not more than \$250 for each offense against any person who is found to have violated the board's rules or orders, which amounts shall be deposited into the special compensation fund created by section 386-151.

The board shall determine and direct the appropriate notice and form for such opportunity to be heard."

SECTION 2. Section 386-88, Hawaii Revised Statutes, is amended to read as follows:

"§386-88 Judicial review. The decision or order of the appellate board shall be final and conclusive, except as provided in section 386-89, unless within thirty days after mailing of a certified copy of the decision or order, the director or any other party appeals to the intermediate appellate court, subject to chapter 602, by filing a written notice of appeal with the appellate board~~[-], or by electronically filing a notice of appeal in accordance with the Hawaii rules of appellate procedure.~~ A fee in the amount prescribed by section 607-5 for filing a notice of appeal from a circuit court shall be paid to the appellate board for filing the notice of appeal from the board, which together with the appellate court costs shall be deemed costs of the appellate court proceeding. The appeal shall be on the record, and the court shall review the appellate board's decision on matters of law only. No new evidence shall be introduced in the appellate court, except that if evidence is offered that is clearly newly discovered evidence and material to the just decision of the appeal, the court may admit the evidence."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 16, 2013.)

A Bill for an Act Relating to the Employment Security Appeals Referee's Office.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 383-38, Hawaii Revised Statutes, is amended to read as follows:

"§383-38 Appeals, filing, and hearing. (a) The claimant or any other party entitled to notice of a determination or redetermination as herein provided may file an appeal from the determination or redetermination at the office of the department in the county in which the claimant resides or in the county in which the claimant was last employed, or with a copy of the contested determination at the employment security appeals referee's office, within ten days after the date of mailing of the notice to the claimant's or party's last known address, or if the notice is not mailed, within ten days after the date of delivery of the notice to the claimant or party. The department may for good cause extend the period within which an appeal may be filed to thirty days. Written notice of a hearing of an appeal shall be sent by first class, nonregistered, noncertified mail to the claimant's or party's last known address[-] at least twelve days prior to the initial hearing date.

(b) The appeal under subsection (a) shall be heard in the county in which the appeal is filed, except that the department may by its rules provide for the holding of a hearing in another county with the consent of all parties or where necessary in order that a fair and impartial hearing may be had, and may provide for the taking of depositions. Unless the appeal is withdrawn with the permission of the referee, the referee after affording the parties reasonable opportunity for a fair hearing shall make findings and conclusions and on the basis thereof affirm, modify, or reverse such determination or redetermination. The parties to any appeal shall be promptly notified of the decision of the referee and shall be furnished with a copy of the decision and the findings and conclusions in support thereof and the decisions shall be final and shall be binding upon each party unless a proceeding for judicial review is initiated by the party pursuant to section 383-41; provided that within the time provided for taking an appeal and prior to the filing of a notice of appeal, the referee may reopen the matter, upon the application of the director or any other party, or upon the referee's own motion, and thereupon may take further evidence or may modify or reverse the referee's decision, findings, or conclusions. If the matter is reopened, the referee shall render a further decision in the matter either reaffirming or modifying or reversing the referee's original decision, and notice shall be given thereof in the manner hereinbefore provided. Upon reopening, the referee who heard the original appeal shall reconsider the matter, except where the referee is no longer employed as a referee or the referee disqualifies oneself from reconsidering the referee's decision.

(c) The time to initiate judicial review under section 383-41 shall run from the notice of such further decision, if the matter has been reopened under subsection (b).

(d) If a claimant or party does not receive the written notice under subsection (a), a second written notice shall be sent by certified mail, and the hearing on the appeal shall be rescheduled accordingly.

(e) Upon application to, and approval by, the employment security appeals referee's office, a claimant or party to an appeal may elect to receive hearing notices, decisions, and other appeal documents from the referee's office in

electronic format in lieu of notice by mail. The date of electronic transmission is equivalent to the mailing date for purposes of this section. Electronic notification status may be rescinded at any time by the referee's office, claimant, or any party upon written notification."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 16, 2013.)

ACT 16

S.B. NO. 511

A Bill for an Act Relating to Uniform Commercial Code Article 4A.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that amendments to the federal Electronic Fund Transfer Act, which go into effect in 2013, do not address the rights and responsibilities of the parties involved in some consumer international wire transfers, also known as "remittance transfers". Amendments to article 4A of the Uniform Commercial Code are therefore needed to clarify when the Uniform Commercial Code will govern those transactions.

The purpose of this Act is to clarify the relationship between the Uniform Commercial Code article 4A and the federal Electronic Fund Transfer Act.

SECTION 2. Section 490:4A-108, Hawaii Revised Statutes, is amended to read as follows:

"§490:4A-108 ~~[Exclusion of consumer transactions governed by federal law.] Relationship to Electronic Fund Transfer Act. [This]~~ (a) Except as provided in subsection (b), this article does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act of 1978 (Title XX, Public Law 95-630, 92 Stat. 3728, 15 U.S.C. §1693 et seq.) as amended from time to time.

(b) This article applies to a funds transfer that is a remittance transfer as defined in the Electronic Fund Transfer Act (15 U.S.C. §1693o-1) as amended, unless the remittance transfer is an electronic fund transfer as defined in the Electronic Fund Transfer Act (15 U.S.C. §1693a) as amended.

(c) In a funds transfer to which this article applies, in the event of an inconsistency between an applicable provision of this article and an applicable provision of the Electronic Fund Transfer Act, the provision of the Electronic Fund Transfer Act governs to the extent of the inconsistency."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 16, 2013.)

ACT 17

S.B. NO. 341

A Bill for an Act Relating to Disposition of Remains.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that forty-eight states have enacted right of disposition laws to specify the priority of persons who may control the disposition of a decedent's remains or the arrangements for funeral goods and services.

The legislature further finds that specifying the priority of persons able to control disposition of a decedent's remains permits funeral establishments, cemeteries, mortuaries, and crematories to take direction from these persons and promptly provide needed services.

The purpose of this Act is to:

- (1) Determine the priority of the persons who may direct the disposition of a decedent's remains and the arrangements for funeral goods and services;
- (2) Permit funeral establishments, cemeteries, mortuaries, and crematories to rely and act upon written directions from the decedent or persons who have the right of disposition without liability in certain circumstances; and
- (3) Permit funeral establishments, cemeteries, mortuaries, and crematories to control the disposition and dispose of a decedent's remains in certain circumstances.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER
DISPOSITION OF REMAINS**

§ -1 **Short title.** This chapter shall be known and may be cited as the Disposition of Remains Act.

§ -2 **Definitions.** As used in this chapter:

"Cemetery" means any property, or part interest therein, dedicated to and used or intended to be used for the permanent interment of human remains. It may be a burial park with one or more plots, for earth interment; a mausoleum with one or more vaults or crypt interments; a structure or place with one or more niches, recesses, or other receptacles for the interment of cremated remains, or any combination of one or more thereof.

"Crematory" means a structure containing a furnace used or intended to be used for the cremation of human remains.

"Estranged" means a physical and emotional separation from the decedent at the time of death which has existed for a period of time that clearly demonstrates an absence of due affection, trust, and regard for the decedent.

"Funeral establishment" means a place of business used in the care and preparation for interment or transportation of human remains, embalming, placing the same on display, or otherwise providing for final disposition of human remains.

"Mortuary" means a place of business devoted exclusively to furnishing funeral services and related commodities.

"Person" means an individual eighteen years of age or older.

§ -3 Direction for disposition. A person may provide written directions for the location, manner, and conditions of disposition of the person's remains in a testamentary disposition, in a pre-need contract pursuant to chapter 441, or by any written document signed by the person and notarized. The written directions may also include arrangements for funeral goods and services to be provided upon that person's death and shall take precedence over wishes or other direction by any other person.

§ -4 Right to control disposition; priority. (a) Unless a decedent has left directions in writing for the disposition of remains pursuant to section -3 or -5 or a person has forfeited the right of disposition pursuant to section -6, the following persons, in the priority listed, have the right to control the disposition of the decedent's remains and the location, manner, and conditions of disposition of the decedent's remains:

- (1) A person designated by the decedent in a testamentary disposition or a written instrument executed in accordance with section -5;
- (2) The surviving spouse, if the decedent was legally married at the time of death; the surviving partner, as defined in section 572B-1, if the decedent had legally entered into a civil union at the time of death; or the surviving reciprocal beneficiary, as defined in section 572C-3, if the decedent was in a reciprocal beneficiary relationship at the time of death;
- (3) The sole surviving child of the decedent, or if there is more than one surviving child, the majority of the surviving children. Less than the majority of the surviving children shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving children and the other surviving children cannot be located or have not responded within five days of the notification of the decedent's death;
- (4) The surviving parent or parents of the decedent. Only one surviving parent shall be vested with the rights and duties of this section if that surviving parent used reasonable efforts to notify the other surviving parent and the other surviving parent cannot be located or has not responded within five days of the notification of the decedent's death;
- (5) The surviving sibling of the decedent, or if there is more than one surviving sibling, the majority of the surviving siblings. Less than the majority of the surviving siblings shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving siblings and the other surviving siblings cannot be located or have not responded within five days of the notification of the decedent's death;
- (6) The surviving grandparent of the decedent, or if there is more than one surviving grandparent, the majority of the surviving grandparents. Less than the majority of the surviving grandparents shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving grandparents and the other surviving grandparents cannot be located or have not responded within five days of the notification of the decedent's death;
- (7) The surviving grandchild of the decedent, or if there is more than one surviving grandchild, the majority of the surviving grandchildren. Less than the majority of the surviving grandchildren shall be vested with the rights and duties of this section if they have used reasonable efforts to notify all other surviving grandchildren and

the other surviving grandchildren cannot be located or have not responded within five days of the notification of the decedent's death;

- (8) The guardian of the decedent at the time of the decedent's death, if one had been appointed;
- (9) The personal representative of the estate of the decedent;
- (10) The person in the next degree of kinship to the decedent, in descending order, subject to descent and distribution under the laws of succession of the State. If there is more than one person of the same degree of kinship to the decedent, any person of that degree may exercise the right of disposition;
- (11) If the disposition of the remains of the decedent is the responsibility of the State or a political subdivision of the State, the public officer, administrator, or employee responsible for arranging the final disposition of decedent's remains; and
- (12) In the absence of any person under paragraphs (1) through (10) of this section, any other person willing to assume the responsibilities to act and arrange the final disposition of the decedent's remains, after attesting in writing that a good faith effort has been made to notify the individuals under paragraphs (1) through (10) of the decedent's death, and no persons have agreed to assume the responsibilities or have responded within five days of the notification.

(b) If a United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form, was in effect at the time of death for a decedent who died in a manner described by title 10 United States Code sections 1481(a)(1) through (8), the DD Form 93 controls any other written instrument described in section -3 or -5 with respect to designating a person to control the disposition of the decedent's remains. Notwithstanding section -3 or -5, the form is legally sufficient if it is properly completed, signed by the decedent, and witnessed in the manner required by the form.

§ -5 Written instrument to control disposition of remains. A person who wishes to authorize another person to control the disposition of remains and the arrangements for funeral goods and services may execute a written instrument before a notary public. The written instrument shall be in substantially the following form:

"State of _____
County of _____

I, _____ do hereby designate _____ as the sole person who will have the right to determine and decide the disposition of my remains upon my death and the arrangements for funeral goods and services. I ___ have/___ have not attached specific directions concerning the disposition of my remains. If I have attached specific directions, the designee shall substantially comply with the specific directions, provided the directions are lawful and there are sufficient resources in my estate to carry out the directions.

SIGNATURE: Sign and date the form here:

(sign your name)

(date)

(print your name)

DECLARATION OF NOTARY:

Subscribed and sworn before me, _____ (insert name of notary public), on this _____ day of _____, in the year _____.
Notary Seal

(Signature of Notary Public)"

§ -6 Forfeiture of right to direct disposition. A person entitled under law to the right of disposition shall forfeit that right, and the right is passed on to the next person in the order of priority as listed in section -4, under the following circumstances:

- (1) The person is charged with murder or manslaughter in connection with the decedent's death, and the charges are known to the funeral director or manager of the funeral establishment, cemetery, mortuary, or crematory; provided that if the charges against the person are dismissed, or if the person is acquitted of the charges, the right of disposition is returned to that person, unless the dismissal or acquittal occurs after the final disposition has been completed;
- (2) The person does not exercise the person's right of disposition within five days of notification of the decedent's death or within seven days of the decedent's death, whichever is earlier;
- (3) The person and the decedent are spouses, civil union partners, or reciprocal beneficiaries, and at the time of the decedent's death, proceedings for annulment, divorce, or separation had been initiated or a declaration for termination of the reciprocal beneficiary relationship had been filed; or
- (4) The probate court pursuant to section -7 determines that the person entitled to the right of disposition and the decedent were estranged at the time of death.

§ -7 Disputes. (a) Any dispute among any of the persons listed in section -4 concerning the right of disposition or priority shall be resolved by the probate court for the county where the decedent resided. The probate court may award the right of disposition to the person determined by the court to be the most fit and appropriate to carry out the right of disposition, and may make decisions regarding the decedent's remains.

(b) The following provisions shall apply to the court's determination under this section:

- (1) If two or more persons with the same priority class hold the right of disposition and cannot agree by majority vote regarding the disposition of the decedent's remains, or there are any persons who claim to have priority over any other person, any of these persons or a funeral establishment, cemetery, mortuary, or crematory with custody of the remains may file a petition asking the probate court to make a determination in the matter; and
- (2) In making a determination in a case where there are two or more persons with the same priority class who cannot agree by majority vote, the probate court may consider the following:
 - (A) The reasonableness and practicality of the proposed funeral arrangements and disposition;
 - (B) The degree of the personal relationship between the decedent and each of the persons claiming the right of disposition;

- (C) The desires of the person or persons who are ready, able, and willing to pay the cost of the funeral arrangements and disposition;
- (D) The convenience and needs of other families and friends wishing to pay respects;
- (E) The desires of the decedent; and
- (F) The degree to which the funeral arrangements would allow maximum participation by all wishing to pay respect.

(c) In the event of a dispute regarding the right of disposition, a funeral establishment, cemetery, mortuary, or crematory shall not be liable for refusing to accept the remains, to inter or otherwise dispose of the remains of the decedent, or complete the arrangements for the final disposition of the remains until it receives a court order or other written agreement signed by the parties in the disagreement that the dispute has been resolved or settled.

If the funeral establishment, cemetery, mortuary, or crematory retains the remains for final disposition while the parties are in disagreement, it may embalm or refrigerate and shelter the body, or both, while awaiting the final decision of the probate court and may add the cost of embalming or refrigeration and sheltering to the cost of final disposition.

If a funeral establishment, cemetery, mortuary, or crematory brings an action under this section, it may add the legal fees and court costs associated with a petition under this section to the cost of final disposition.

This section shall not be construed to require or impose a duty upon a funeral establishment, cemetery, mortuary, or crematory to bring an action under this section.

A funeral establishment, cemetery, mortuary, or crematory and its officers, directors, managers, members, partners, or employees may not be held criminally or civilly liable for choosing not to bring an action under this section.

§ -8 Right to rely on representations. (a) Any person signing a funeral service agreement, cremation authorization form, or any other authorization for disposition shall be deemed to warrant the truthfulness of any facts set forth therein, including the identity of the decedent whose remains are to be buried, cremated, or otherwise disposed of, and the party's authority to order the disposition.

(b) A funeral establishment, cemetery, mortuary, or crematory shall have the right to rely on the funeral service agreement, cremation authorization form, or any other authorization form, including the identification of the decedent, and shall have the authority to carry out the instructions of the person or persons whom the funeral establishment, cemetery, mortuary, or crematory reasonably believes to hold the right of disposition.

(c) The funeral establishment, cemetery, mortuary, or crematory shall have no responsibility to verify the identity of the decedent or contact or independently investigate the existence of any person who may have a right of disposition. If there is more than one person in the same priority class pursuant to section -4 and the funeral establishment, cemetery, mortuary, or crematory has no knowledge of any objection by other members of the priority class, it may rely on and act according to the instructions of the first person in the priority class to make funeral and disposition arrangements; provided that no other person in the priority class provides written notice to the funeral establishment, cemetery, mortuary, or crematory of that person's objections.

§ -9 Authority to direct and control disposition; recovery of reasonable expenses. (a) A funeral director or manager of a funeral establishment, cemetery,

mortuary, or crematory shall have complete authority to direct and control the final disposition and disposal of a decedent's remains and to proceed under this chapter to recover reasonable charges for the final disposition and disposal if:

- (1) The funeral director or manager:
 - (A) Has no knowledge that any of the persons described in section -4(a)(1) through -(10) exist;
 - (B) Has knowledge that the person or persons who may or do have the right of disposition cannot be found after reasonable inquiry or reasonable attempts to contact; or
 - (C) Has knowledge that the person or persons who may or do have the right of disposition have lost this right pursuant to section -6; and
 - (2) The appropriate public authority fails to assume responsibility for disposition of the remains within thirty-six hours after having been given written notice of the decedent's death. Written notice may be given by hand delivery, certified mail, facsimile transmission, or electronic mail transmission.
- (b) Disposal of the decedent's remains pursuant to this section shall be by any means that are not prohibited by law.

§ -10 Disposition of unclaimed cremated remains. Whenever any cremated remains have been in the lawful possession of any funeral establishment, cemetery, mortuary, or crematory for sixty or more days, and the person entitled under law to the right of disposition fails, neglects, or refuses to take custody of the cremated remains or direct the disposition, the funeral establishment, cemetery, mortuary, or crematory with lawful possession of the cremated remains may dispose of the remains by any manner that is not inconsistent with any law of the State.

§ -11 Immunity. No funeral establishment, cemetery, mortuary, or crematory or any of its officers, directors, members, partners, funeral directors, managers, or employees who reasonably rely in good faith upon the instructions of an individual claiming the right of disposition shall be subject to criminal or civil liability or administrative or disciplinary action for carrying out the disposition of the remains in accordance with the instructions."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 16, 2013.)

ACT 18

H.B. NO. 868

A Bill for an Act Relating to Eliminating the Asset Limit Eligibility Requirement for the Temporary Assistance for Needy Families Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-29, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) In determining the needs of an applicant or recipient for public assistance by the department, the department shall:

- (1) Disregard the amounts of earned or unearned income as required or allowed by federal acts and other regulations, to receive federal funds and disregard from gross earned income twenty per cent plus \$200 and a percentage of the remaining balance of earned income consistent with federal regulations and other requirements;
- (2) Consider as net income in all cases the income as federal acts and other regulations require the department to consider for receipt of federal funds and may consider the additional income and resources as these acts and regulations permit to be considered;
- (3) For households with minor dependents, disregard ~~[a total of \$5,000 in assets and the value of one motor vehicle]~~ assets in determining the needs of persons for financial assistance; provided that the amount to be disregarded shall not exceed standards under federally funded financial assistance programs. This paragraph shall not apply to persons eligible for federal supplemental security income benefits, aid to the aged, blind or disabled, or general assistance to households without minor dependents. In determining the needs of persons eligible for federal supplemental security income benefits, aid to the aged, blind or disabled, or general assistance to households without minor dependents, the department shall apply all the resource retention and exclusion requirements under the federal supplemental security income program;
- (4) Apply the resource retention requirements under the federal supplemental security income program in determining the needs of a single person for medical assistance only;
- (5) Apply the resource retention requirements under the federal supplemental security income program in determining the needs of a family of two persons for medical assistance only and an additional \$250 for each additional person included in an application for medical assistance only;
- (6) Disregard amounts of emergency assistance granted under section 346-65;
- (7) Not consider as income or resources any payment for services to or on behalf of, or any benefit received by, a participant under the first-to-work program of part XI, other than wages. Wages earned by a participant while participating in the first-to-work program shall be considered income of the participant, unless the wages are excluded or disregarded under any other law;
- (8) Not consider as income or resources payment made to eligible individuals, eligible surviving spouses, surviving children or surviving parents as specified under Title I of the Civil Liberties Act of 1988, Public Law 100-383, which made restitution to individuals of Japanese ancestry who were interned during World War II;
- (9) Allow the community spouse of an individual residing in a medical institution to maintain countable resources to the maximum allowed by federal statutes or regulations with provisions for increases, as allowed by the Secretary of Health and Human Services by means of indexing, court order, or fair hearing decree, without jeopardizing the eligibility of the institutionalized spouse for medical assistance;
- (10) Allow an individual residing in a medical institution to contribute toward the support of the individual's community spouse, thereby enabling the community spouse to maintain the monthly maximum income allowed by federal statutes or regulations, with provisions

for increases as allowed by the Secretary of Health and Human Services by means of indexing, court order, or fair hearing decree;

- (11) Consider the transfer of assets from the applicant's name to another name within the specified time period as required by federal regulations, known as the "lookback" period, prior to the application for medical assistance for care in a nursing home or other long-term care facility. Pursuant to rules adopted under chapter 91, the director may attribute any assets that have been transferred within the required federal "lookback" period from the applicant if the director determines that transfer of certain assets was made solely to make the applicant eligible for assistance under this chapter; and
- (12) Not consider as income or resources any funds deposited into a family self-sufficiency escrow account on behalf of a participant under a federal housing choice voucher family self-sufficiency program as required or allowed under federal law."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 2013.)

ACT 19

H.B. NO. 79

A Bill for an Act Relating to Advanced Practice Registered Nurses.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that currently only nurses who have master's degrees in nursing can be recognized as advanced practice registered nurses in Hawaii. This precludes nurses who earn their doctor of nursing practice or other clinical doctorates in nursing recognized by the Hawaii state board of nursing and directly impacts doctor of nursing practice graduates of the University of Hawaii at Manoa school of nursing and dental hygiene and University of Hawaii at Hilo school of nursing. Similarly, other states' advanced practice registered nurses with doctor of nursing practice degrees are precluded from being recognized as advanced practice registered nurses in Hawaii.

In 2012, the National Council of State Boards of Nursing reported that all states except Hawaii and West Virginia accept a graduate degree instead of a master's degree provision in their laws for advanced practice registered nurse licensure and certification. West Virginia has since passed legislation to change its state practice act to reflect "graduate" degree in nursing instead of "master's" degree as a requirement for advanced practice registered nurse licensure.

The purpose of this Act is to change the degree requirement for advanced practice registered nurse recognition from a master's degree in nursing to a graduate degree in nursing.

SECTION 2. Section 457-8.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) ~~[Effective October 1, 2009, the]~~ The board shall grant recognition as an advanced practice registered nurse to a nurse who has:

- (1) A current, unencumbered license as a registered nurse in this State;

- (2) An unencumbered license as a registered nurse in all other states in which the nurse has a current and active license;
- (3) An unencumbered recognition as an advanced practice registered nurse or similar designation in all other states in which the nurse has a current and active recognition as an advanced practice registered nurse;
- (4) Completed an accredited graduate-level education program [~~leading to a master's degree as a certified registered nurse anesthetist, a nurse midwife, a clinical nurse specialist, or a nurse practitioner;~~] preparing the nurse for one of the four recognized advanced practice registered nurse roles;
- (5) A current, unencumbered certification of having passed a national certification examination that measures role and population-focused competencies and is recognized by the board;
- (6) Maintained continued competencies through recertification in role and population-focused competencies through a national certification program recognized by the board;
- (7) Acquired advanced clinical knowledge and skills preparing the nurse to provide direct care to patients through a significant educational and practical concentration on the direct care of patients;
- (8) Demonstrated a greater breadth of knowledge, a greater synthesis of data, greater complexity of skills and interventions, and greater role autonomy than demonstrated by a registered nurse;
- (9) Been educationally prepared to assume responsibility and accountability for health promotion and maintenance and to assess, diagnose, and manage patient problems through the use and prescription of pharmacologic and non-pharmacologic interventions;
- (10) Acquired clinical experience of sufficient depth and breadth to reflect the intended license; and
- (11) Paid the appropriate fees."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 18, 2013.)

ACT 20

H.B. NO. 651

A Bill for an Act Relating to Electronic Prescriptions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. On March 31, 2010, the Drug Enforcement Administration published in the Federal Register its rule "Electronic Prescriptions for Controlled Substances", which became effective on June 1, 2010, and which revises the Drug Enforcement Administration's regulations to provide practitioners with the option of writing prescriptions for controlled substances electronically. The regulations also permit pharmacies to receive, dispense, and archive these electronic prescriptions for controlled substances. These new regulations do not mandate that practitioners prescribe controlled substances using only electronic prescriptions nor do these new regulations require pharmacies to accept only electronic prescriptions for controlled substances for dispensing. The use of

electronic prescriptions for controlled substances is voluntary on the part of the practitioners and pharmacies. Electronic prescriptions for controlled substances may be conveyed electronically; provided that the electronic prescription and the pharmacy application meet the Drug Enforcement Administration's and state's requirements.

Practitioners are still able to write and must manually sign prescriptions for controlled substances in Schedule II, III, IV, and V and may convey valid written prescriptions for controlled substances via facsimile to pharmacies for Schedule III, IV, and V. Orally-ordered prescriptions remain valid for Schedule III, IV, and V and under emergency provisions for Schedule II prescriptions.

Allowing practitioners to electronically prescribe controlled substances and to convey the prescription directly to the pharmacy of the patient's choice, will provide practitioners with a safer, more secure, and timely means to prescribe controlled substances in addition to the conventional means of prescribing controlled substances.

The purpose of this Act is to amend the Uniform Controlled Substances Act in chapter 329, Hawaii Revised Statutes, by:

- (1) Adding definitions to section 329-1, Hawaii Revised Statutes, to be consistent with federal law;
- (2) Clarifying the conditions for the transmittal of prescriptions electronically; and
- (3) Specifying prohibited acts related to electronic prescriptions.

SECTION 2. Section 329-1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

"Electronic prescription" means a prescription that is generated on an electronic prescription application and transmitted as an electronic data file that complies with all applicable requirements of Title 21 Code of Federal Regulations Part 1311 and any additional rules adopted by the department.

"Electronic prescription application" means electronic prescription software either as a stand-alone application or as a module in an electronic health record application.

"Electronic signature" means a method of signing an electronic message that identifies a particular person as the source of the message and indicates the person's approval of the information contained in the message."

SECTION 3. Section 329-38, Hawaii Revised Statutes, is amended to read as follows:

"§329-38 Prescriptions. (a) No controlled substance in schedule II may be dispensed without a written prescription of a practitioner, except:

- (1) In the case of an emergency situation, a pharmacist may dispense a controlled substance listed in schedule II upon receiving oral authorization from a prescribing practitioner; provided that:
 - (A) The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period (dispensing beyond the emergency period must be pursuant to a written prescription signed by the prescribing practitioner);
 - (B) If the prescribing practitioner is not known to the pharmacist, the pharmacist shall make a reasonable effort to determine that the oral authorization came from a registered practitioner, which may include a callback to the prescribing practitioner using the phone number in the telephone directory or other good faith efforts to identify the prescriber; and

(C) Within seven days after authorizing an emergency oral prescription, the prescribing practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to the requirements of this subsection, the prescription shall have written on its face "Authorization for Emergency Dispensing". The written prescription may be delivered to the pharmacist in person or by mail, and if by mail, the prescription shall be postmarked within the seven-day period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription, which had earlier been reduced to writing. The pharmacist shall notify the administrator if the prescribing practitioner fails to deliver a written prescription to the pharmacy within the allotted time. Failure of the pharmacist to do so shall void the authority conferred by this paragraph to dispense without a written prescription of a prescribing individual practitioner. Any practitioner who fails to deliver a written prescription within the seven-day period shall be in violation of section 329-41(a)(1); [øø]

(2) When dispensed directly by a practitioner, other than a pharmacist, to the ultimate user. The practitioner in dispensing a controlled substance in schedule II shall affix to the package a label showing:

- (A) The date of dispensing;
- (B) The name, strength, and quantity of the drug dispensed;
- (C) The dispensing practitioner's name and address;
- (D) The name of the patient;
- (E) The "use by" date for the drug, which shall be:
 - (i) The expiration date on the []manufacturer's[] or principal labeler's container; or
 - (ii) One year from the date the drug is dispensed, whichever is earlier; and
- (F) Directions for use, and cautionary statements, if any, contained in the prescription or as required by law.

A complete and accurate record of all schedule II controlled substances ordered, administered, prescribed, and dispensed shall be maintained for five years. Prescriptions and records of dispensing shall otherwise be retained in conformance with the requirements of section 329-36. No prescription for a controlled substance in schedule II may be refilled[-]; or

(3) In the case of an electronic prescription, a pharmacist may dispense a controlled substance listed in schedule II upon receiving an electronic prescription.

- (b) A schedule II controlled substance prescription shall:
 - (1) Be filled within seven days following the date the prescription was issued to the patient; and
 - (2) Be supplied to a patient only if the prescription has been filled and held by the pharmacy for not more than seven days.

(c) The transfer of original prescription information for a controlled substance listed in schedule III, IV, or V for the purpose of dispensing is permissible between pharmacies on a one time basis only. However, pharmacies electronically sharing a real-time, online database may transfer up to the maximum refills permitted by law and the prescriber's authorization. Transfers are subject to the following requirements:

- (1) The transfer shall be communicated directly between two licensed pharmacists, and the transferring pharmacist shall:
 - (A) Write or otherwise place the word "VOID" on the face of the invalidated prescription;
 - (B) Record on the reverse of the invalidated prescription the name, address, and [DEA] Drug Enforcement Administration registration number of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information; and
 - (C) Record the date of the transfer and the name of the pharmacist transferring the information;
- (2) The pharmacist receiving the transferred prescription information shall reduce to writing the following:
 - (A) Write or otherwise place the word "transfer" on the face of the transferred prescription;
 - (B) Record all information required to be on a prescription, including:
 - (i) The date of issuance of original prescription;
 - (ii) The original number of refills authorized on original prescription;
 - (iii) The date of original dispensing;
 - (iv) The number of valid refills remaining and dates and locations of previous refills;
 - (v) The pharmacy's name, address, [DEA] Drug Enforcement Administration registration number, and original prescription number from which the prescription information was transferred;
 - (vi) The name of the transferor pharmacist; and
 - (vii) The pharmacy's name, address, and Drug Enforcement Administration registration number, along with the prescription number from which the prescription was originally filled;
- (3) Both the original and transferred prescription shall be maintained for a period of five years from the date of last refill; and
- (4) Any pharmacy electronically accessing a prescription record shall satisfy all information requirements of a manual mode prescription transferal.

Failure to comply with this subsection shall void the authority of the pharmacy to transfer prescriptions or receive a transferred prescription to or from another pharmacy.

(d) A pharmacy and an authorized central fill pharmacy may share information for initial and refill prescriptions of schedule III, IV, or V controlled substances. The following requirements shall apply:

- (1) A pharmacy may electronically transmit, including by facsimile, prescriptions for controlled substances listed in schedule III, IV, or V to a central fill pharmacy. The pharmacy transmitting the prescription information shall:
 - (A) Ensure that all information required to be on a prescription pursuant to subsection (g) is transmitted to the central fill pharmacy either on the face of the prescription or electronically; and
 - (B) Keep a record of receipt of the filled prescription, including the date of receipt, the method of delivery (private, common,

or contract carrier) and the identity of the pharmacy employee accepting delivery; and

- (2) The central fill pharmacy receiving the transmitted prescription shall:
 - (A) Keep for five years a copy of a prescription received by facsimile or an electronic record of all the information transmitted by the pharmacy, including the name, address, and [DEA] Drug Enforcement Administration registration number of the pharmacy transmitting the prescription;
 - (B) Keep a record of the date of receipt of the transmitted prescription, the name of the licensed pharmacists filling the prescription, and the dates the prescription was filled or is refilled; and
 - (C) Keep a record of the date the filled prescription was shipped to the pharmacy.

(e) No controlled substance in schedule III, IV, or V may be dispensed without a written, facsimile of a written, [Ø] oral prescription of a practitioner, or receipt of an electronic prescription, except when a controlled substance is dispensed directly by a practitioner, other than a pharmacist, to an ultimate user. The practitioner, in dispensing a controlled substance in schedule III, IV, or V, shall affix to the package a label showing:

- (1) The date of dispensing;
- (2) The name, strength, and quantity issued of the drug;
- (3) The dispensing practitioner's name and business address;
- (4) The name of the patient;
- (5) The "use by" date for the drug, which shall be:
 - (A) The expiration date on the manufacturer's or principal labeler's container; or
 - (B) One year from the date the drug is dispensed, whichever is earlier;
- (6) Directions for use; and
- (7) Cautionary statements, if any, contained in the prescription or as required by law.

A complete and accurate record of all schedule III, IV, and V controlled substances administered, prescribed, and dispensed shall be maintained for five years. Prescriptions and records of dispensing shall be retained in conformance with the requirements of section 329-36 unless otherwise provided by law. Prescriptions may not be filled or refilled more than three months after the date of the prescription or be refilled more than two times after the date of the prescription, unless the prescription is renewed by the practitioner.

(f) The effectiveness of a prescription for the purposes of this section shall be determined as follows:

- (1) A prescription for a controlled substance shall be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of the practitioner's professional practice. The responsibility for the proper prescribing and dispensing of controlled substances shall be upon the prescribing practitioner, but a corresponding responsibility shall rest with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or for legitimate and authorized research shall not be deemed a prescription within the meaning and intent of this section, and the person who knowingly fills such a purported prescription, as well as the person who issues

the prescription, shall be subject to the penalties provided for violations of this chapter;

- (2) A prescription may not be issued to allow an individual practitioner to obtain controlled substances for supplying the individual practitioner for the purpose of general dispensing to patients;
- (3) A prescription may not be issued for the dispensing of narcotic drugs listed in any schedule for the purpose of "detoxification treatment" or "maintenance treatment" except as follows:
 - (A) The administering or dispensing directly (but not prescribing) of narcotic drugs listed in any schedule to a narcotic drug-dependent person for "detoxification treatment" or "maintenance treatment" shall be deemed to be "in the course of a practitioner's professional practice or research" so long as the practitioner is registered separately with the department and the federal Drug Enforcement Agency as required by section 329-32(e) and complies with Title 21 Code of Federal Regulations section 823(g) and any other federal or state regulatory standards relating to treatment qualification, security, records, and unsupervised use of drugs; and
 - (B) Nothing in this section shall prohibit a physician or authorized hospital staff from administering or dispensing, but not prescribing, narcotic drugs in a hospital to maintain or detoxify a person as an incidental adjunct to medical or surgical treatment of conditions other than addiction;
- (4) An individual practitioner shall not prescribe or dispense a substance included in schedule II, III, IV, or V for that individual practitioner's personal use, except in a medical emergency; and
- (5) A pharmacist shall not dispense a substance included in schedule II, III, IV, or V for the pharmacist's personal use.
- (g) Prescriptions for controlled substances shall be issued only as follows:

- (1) All prescriptions for controlled substances shall originate from within the State and be dated as of, and signed on, the day when the prescriptions were issued and shall contain:
 - (A) The first and last name and address of the patient; and
 - (B) The drug name, strength, dosage form, quantity prescribed, and directions for use. Where a prescription is for gamma hydroxybutyric acid, methadone, or buprenorphine, the practitioner shall record as part of the directions for use, the medical need of the patient for the prescription.

[The] Except for electronic prescriptions, controlled substance prescriptions shall be no larger than eight and one-half inches by eleven inches and no smaller than three inches by four inches. A practitioner may sign a prescription in the same manner as the practitioner would sign a check or legal document (e.g., J.H. Smith or John H. Smith) and shall use both words and figures (e.g., alphabetically and numerically as indications of quantity, such as five (5)), to indicate the amount of controlled substance to be dispensed. Where an oral order or electronic prescription is not permitted, prescriptions shall be written with ink or indelible pencil or typed, shall be manually signed by the practitioner, and shall include the name, address, telephone number, and registration number of the practitioner. The prescriptions may be prepared by a secretary or agent for the signature of the practitioner, but the prescribing practitioner shall be

responsible in case the prescription does not conform in all essential respects to this chapter and any rules adopted pursuant to this chapter. In receiving an oral prescription from a practitioner, a pharmacist shall promptly reduce the oral prescription to writing, which shall include the following information: the drug name, strength, dosage form, quantity prescribed in figures only, and directions for use; the date the oral prescription was received; the full name, [DEA] Drug Enforcement Administration registration number, and oral code number of the practitioner; and the name and address of the person for whom the controlled substance was prescribed or the name of the owner of the animal for which the controlled substance was prescribed.

A corresponding liability shall rest upon a pharmacist who fills a prescription not prepared in the form prescribed by this section. A pharmacist may add a patient's missing address or change a patient's address on all controlled substance prescriptions after verifying the patient's identification and noting the identification number on the back of the prescription[-] document on file. The pharmacist shall not make changes to the patient's name, the controlled substance being prescribed, the quantity of the prescription, the practitioner's [DEA] Drug Enforcement Administration number, the practitioner's name, the practitioner's electronic signature, or the practitioner's signature;

- (2) An intern, resident, or foreign-trained physician, or a physician on the staff of a Department of Veterans Affairs facility or other facility serving veterans, exempted from registration under this chapter, shall include on all prescriptions issued by the physician:
 - (A) The registration number of the hospital or other institution; and
 - (B) The special internal code number assigned to the physician by the hospital or other institution in lieu of the registration number of the practitioner required by this section.

The hospital or other institution shall forward a copy of this special internal code number list to the department as often as necessary to update the department with any additions or deletions. Failure to comply with this paragraph shall result in the suspension of that facility's privilege to fill controlled substance prescriptions at pharmacies outside of the hospital or other institution. Each written prescription shall have the name of the physician stamped, typed, or hand-printed on it, as well as the signature of the physician;

- (3) An official exempted from registration shall include on all prescriptions issued by the official:
 - (A) The official's branch of service or agency (e.g., "U.S. Army" or "Public Health Service"); and
 - (B) The official's service identification number, in lieu of the registration number of the practitioner required by this section. The service identification number for a Public Health Service employee shall be the employee's social security or other government issued identification number.

Each prescription shall have the name of the officer stamped, typed, or handprinted on it, as well as the signature of the officer; and

- (4) A physician assistant registered to prescribe controlled substances under the authorization of a supervising physician shall include on all controlled substance prescriptions issued:

- (A) The [DEA] Drug Enforcement Administration registration number of the supervising physician; and
- (B) The [DEA] Drug Enforcement Administration registration number of the physician assistant.

Each written controlled substance prescription issued shall include the printed, stamped, typed, or hand-printed name, address, and phone number of both the supervising physician and physician assistant, and shall be signed by the physician assistant. The medical record of each written controlled substance prescription issued by a physician assistant shall be reviewed and initialed by the physician assistant's supervising physician within seven working days.

(h) A prescription for controlled substances may only be filled by a pharmacist acting in the usual course of the pharmacist's professional practice and either registered individually or employed in a registered pharmacy, central fill pharmacy, or registered institutional practitioner. A central fill pharmacy authorized to fill prescriptions on behalf of a pharmacy shall have a contractual relationship with the pharmacy that provides for this activity or shall share a common owner with the pharmacy. A central fill pharmacy shall not prepare prescriptions for any controlled substance listed in schedule II.

(i) Partial filling of controlled substance prescriptions shall be determined as follows:

- (1) The partial filling of a prescription for a controlled substance listed in schedule II is permissible if the pharmacist is unable to supply the full quantity called for in a written, electronic prescription, or emergency oral prescription and the pharmacist makes a notation of the quantity supplied on the face of the written prescription (or written record of the electronic prescription or emergency oral prescription). The remaining portion of the prescription may be filled within seventy-two hours of the first partial filling; provided that if the remaining portion is not or cannot be filled within the seventy-two-hour period, the pharmacist shall notify the prescribing individual practitioner. No further quantity shall be supplied beyond seventy-two hours without a new prescription;
- (2) The partial filling of a prescription for a controlled substance listed in schedule III, IV, or V is permissible; provided that:
 - (A) Each partial filling is recorded in the same manner as a refilling;
 - (B) The total quantity dispensed in all partial fillings does not exceed the total quantity prescribed;
 - (C) No dispensing occurs more than three months after the date on which the prescription was issued; and
 - (D) The prescription is refilled no more than two times after the initial date of the prescription, unless the prescription is renewed by the practitioner; and
- (3) A prescription for a schedule II controlled substance [~~written~~] issued for a patient in a long-term care facility or for a patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities to include individual dosage units. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist shall contact the practitioner prior to partially filling the prescription. Both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient. The pharmacist shall record on the prescription document on file whether the patient is "terminally ill" or a "long-term care facility patient". For

the purposes of this section, "TI" means terminally ill and "LTCF" means long-term care facility. A prescription that is partially filled and does not contain the notation "TI" or "LTCF patient" shall be deemed to have been filled in violation of this section. For each partial filling, the dispensing pharmacist shall record on the back of the prescription (or on another appropriate record, uniformly maintained, and readily retrievable) the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist. The total quantity of schedule II controlled substances dispensed in all partial fillings shall not exceed the total quantity prescribed, nor shall a prescription be partially filled more than three times after the initial date of the prescription. Schedule II controlled substance prescriptions for patients in a long-term care facility or patients with a medical diagnosis documenting a terminal illness shall be valid for a period not to exceed thirty days from the issue date unless sooner terminated by the discontinuance of medication.

(j) A prescription for a schedule II controlled substance may be transmitted by the practitioner or the practitioner's agent to a pharmacy by facsimile equipment; provided that the original written, signed prescription is presented to the pharmacist for review prior to the actual dispensing of the controlled substance, except as noted in subsections (k), (l), and (m). The original prescription shall be maintained in accordance with section 329-36. A prescription for a schedule III, IV, or V controlled substance may be transmitted by the practitioner or the practitioner's agent to a pharmacy by facsimile; provided that:

- (1) The information shall be communicated only between the prescribing practitioner or the prescriber's authorized agent and the pharmacy of the patient's choice. The original prescription shall be maintained by the practitioner in accordance with section 329-36;
- (2) The information shall be communicated in a retrievable, recognizable format acceptable to the intended recipient and shall include the physician's oral code designation and the name of the recipient pharmacy;
- (3) No electronic system, software, or other intervening mechanism or party shall alter the practitioner's prescription, order entry, selection, or intended selection without the practitioner's approval on a per prescription per order basis. Facsimile prescription information shall not be altered by any system, software, or other intervening mechanism or party prior to receipt by the intended pharmacy;
- (4) The prescription information processing system shall provide for confidentiality safeguards required by federal or state law; and
- (5) Prescribing practitioners and pharmacists shall exercise prudent and professional judgment regarding the accuracy, validity, and authenticity of any facsimile prescription information. The facsimile shall serve as the original written prescription for purposes of this section and shall be maintained in accordance with section 329-36.

(k) A prescription prepared in accordance with subsection (g) written for a narcotic listed in schedule II to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion, but does not extend to the dispensing of oral dosage units of controlled substances, may be transmitted by the practitioner or the practitioner's agent to the pharmacy by facsimile. The original prescription shall be maintained by the practitioner in accordance with section 329-36. The pharmacist shall note on the face of the facsimile prescription in red ink "Home Infu-

sion/IV" and this facsimile shall serve as the original written prescription for purposes of this section and it shall be maintained in accordance with section 329-36.

(l) A prescription prepared in accordance with subsection (g) written for a schedule II substance for a patient enrolled in a hospice care program certified or paid for by medicare under Title XVIII or a hospice program that is licensed by the State may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The original prescription shall be maintained by the practitioner in accordance with section 329-36. The practitioner or practitioner's agent shall note on the prescription that the patient is a hospice patient. The pharmacist shall note on the face of the facsimile prescription in red ink "HOSPICE" and this facsimile shall serve as the original written prescription for purposes of this section and it shall be maintained in accordance with section 329-36.

(m) A prescription prepared in accordance with subsection (g) written for a schedule II controlled substance for a resident of a state-licensed long-term care facility may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The original prescription shall be maintained by the practitioner in accordance with section 329-36. The pharmacist shall note on the face of the facsimile prescription in red ink "LTCF" and this facsimile shall serve as the original written prescription for purposes of this section and it shall be maintained in accordance with section 329-36.

(n) An electronic prescription for a schedule II, III, IV, or V controlled substance may be electronically transmitted by the practitioner to a pharmacy; provided that:

- (1) The information shall be communicated only between the prescribing practitioner and the pharmacy of the patient's choice. The electronic prescription shall be maintained by the practitioner in accordance with section 329-36;
- (2) The information shall be communicated in a retrievable, recognizable format acceptable to the intended recipient;
- (3) No electronic system, software, or other intervening mechanism or party shall alter the practitioner's prescription, order entry, selection, or intended selection without the practitioner's approval on a per-prescription, per-order basis. Transmitted prescription information shall not be altered by any electronic system, software, or other intervening mechanism or party prior to receipt by the intended pharmacy;
- (4) The prescription information processing system shall provide for confidentiality safeguards required by any applicable federal or state law; and
- (5) Prescribing practitioners and pharmacists shall exercise prudent and professional judgment regarding the accuracy, validity, and authenticity of any electronic prescription information."

SECTION 4. Section 329-42, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) It is unlawful for any person knowingly or intentionally:

- (1) To distribute as a registrant a controlled substance classified in schedule I or II, except pursuant to an order form as required by section 329-37;
- (2) To use in the course of the manufacture, distribution, administration, or prescribing of a controlled substance a registration number

that is fictitious, revoked, suspended, expired, or issued to another person;

- (3) To obtain or attempt to obtain any controlled substance or procure or attempt to procure the administration of any controlled substance:
 - (A) By fraud, deceit, misrepresentation, embezzlement, theft;
 - (B) By the forgery or alteration of a prescription or of any written order;
 - (C) By furnishing fraudulent medical information or the concealment of a material fact;
 - (D) By the use of a false name, patient identification number, or the giving of false address;
 - (E) By the unauthorized use of a ~~[physician's]~~ practitioner's oral call-in number; ~~[or]~~
 - (F) By the alteration of a prescription by the addition of future refills;
 - (G) By the unauthorized use of a practitioner's electronic prescription application; or
 - (H) By the unauthorized transmission of an electronic prescription;
- (4) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter;
- (5) To make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render the drug a counterfeit substance;
- (6) To misapply or divert to the person's own use or other unauthorized or illegal use or to take, make away with, or secrete, with intent to misapply or divert to the person's own use or other unauthorized or illegal use, any controlled substance that shall have come into the person's possession or under the person's care as a registrant or as an employee of a registrant who is authorized to possess controlled substances or has access to controlled substances by virtue of the person's employment; or
- (7) To make, distribute, possess, or sell any prescription form, whether blank, faxed, computer generated, photocopied, electronically transmitted, or reproduced in any other manner without the authorization of the licensed practitioner."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 18, 2013.)

A Bill for an Act Relating to the Access Hawaii Committee.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 27G-3, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§27G-3]] Access Hawaii committee; establishment; membership; chairperson.~~ (a) There is established within the department of accounting and general services, the access Hawaii committee.

(b) The committee shall consist of not more than fifteen voting ex officio members, or their designated representatives, as follows:

- (1) The comptroller;
- (2) The administrator of the information and communication services division of the department of accounting and general services;
- (3) The administrator of the state procurement office;
- (4) The director of the office of information practices;
- (5) The directors of not more than three government agencies using or planning to use the services of the portal manager;
- (6) The administrative director of the courts;
- (7) A representative of the Hawaii state senate appointed by the president of the senate;
- (8) A representative of the Hawaii state house of representatives appointed by the speaker of the house of representatives; ~~[and]~~
- (9) The chief information officers of the four counties~~[-]; and~~
- (10) The chief information officer.

(c) The ~~[comptroller]~~ chief information officer or the chief information officer's designee shall serve as the chairperson of the committee.”

SECTION 2. Section 27G-5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§27G-5]] Annual report.~~ The committee shall submit an annual report to the governor and the legislature no later than twenty days prior to the convening of each regular session, on the operations of the portal. The annual report shall include the portal manager's annual financial reports.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 18, 2013.)

A Bill for an Act Relating to the Enhanced 911 Board.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 138-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created within the department of accounting and general services, for administrative purposes, an enhanced 911 board consisting of thirteen voting members; provided that the membership shall consist of:

- (1) The ~~comptroller~~ chief information officer or the ~~comptroller's~~ chief information officer's designee;
- (2) Three representatives from wireless communications service providers, who shall be appointed by the governor as provided in section 26-34;
- (3) One representative each from the public safety answering points for Oahu, Hawaii, Kauai, Maui, and Molokai and one representative, chosen by the mayor of the city and county of Honolulu, who shall be appointed by the governor as provided in section 26-34;
- (4) The consumer advocate or the consumer advocate's designee;
- (5) One representative from a communications service company that offers Interconnected Voice over Internet Protocol services, who shall be appointed by the governor as provided in section 26-34; and
- (6) One representative of the public utility providing telecommunications services and land line enhanced 911 services through section 269-16.95.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 18, 2013.)

ACT 23

S.B. NO. 1036

A Bill for an Act Relating to Employees' Retirement System Personnel.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 88, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§88- Investment personnel. The board may, through its executive director, appoint one or more investment officers, under the direction of the chief investment officer, prescribing their duties and qualifications and fixing their salaries, who shall be exempt from chapter 76.”

SECTION 2. Section 88-9, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

- “(b) Any retirant employed in violation of this section shall:
- (1) Reimburse the system for any retirement allowance or other benefit received from the system during the period or periods of employment in violation of this section, plus interest thereon at the rate of eight per cent per annum;
 - (2) Pay the system an amount of money equal to the employee contributions that would otherwise have been paid during the period or periods of employment in violation of this section, plus interest thereon at the rate of eight per cent per annum; and
 - (3) Contribute toward reimbursement of the system for administrative expenses incurred in responding to the situation, to the extent that

the retirant is determined by the ~~[administrator]~~ executive director to be at fault.

- (c) Any employer that employs a retirant in violation of this section shall:
- (1) Pay to the system an amount of money equal to the employer contributions that would otherwise have been paid for the period or periods of employment in violation of this section, plus interest thereon at the rate of eight per cent per annum; and
 - (2) Contribute toward reimbursement of the system for administrative expenses incurred in responding to the situation, to the extent that the employer is determined by the ~~[administrator]~~ executive director to be at fault."

SECTION 3. Section 88-29, Hawaii Revised Statutes, is amended as follows:

"§88-29 Officers, employees, legal adviser. The board shall elect from its membership a chairperson, and by a majority vote of all its members, shall appoint an ~~[administrator]~~ executive director and a chief investment officer who shall be exempt from chapter 76 and serve under and at the pleasure of the board. Effective July 1, 2007, the salaries of the ~~[administrator]~~ executive director and chief investment officer shall be set by the board. The board shall engage actuarial and other services as shall be required to transact the business of the system. The compensation for all services engaged by the board, and all other expenses of the board necessary for the operation of the system, shall be paid at rates and in amounts the board shall approve.

The attorney general or an appointed representative may serve as legal adviser to the board or the board may select its own legal counsel."

SECTION 4. Section 88-90.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Subject to the recommendation of the actuary appointed under section 88-29, the board may adopt, by motion at any duly noticed meeting of the board, actuarial tables, factors, and assumptions for the purposes of parts II, VII, and VIII. The tables, factors, and assumptions that are used to compute benefits shall be in writing and certified by the ~~[administrator]~~ executive director."

SECTION 5. Section 88-211, Hawaii Revised Statutes, is amended by amending the definition of "state agency" to read as follows:

- "(4) The term "state agency" means the ~~[administrator]~~ executive director of the state employees' retirement system;"

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act, upon its approval, shall take effect on July 1, 2013.

(Approved April 18, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 24

S.B. NO. 1039

A Bill for an Act Relating to the Public Utilities Commission.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this measure is to make the public utilities commission's process of reporting to the legislature more efficient by consolidating reports submitted on a fiscal year basis within the commission's single annual report filing made pursuant to section 269-5, Hawaii Revised Statutes.

SECTION 2. Section 269-33, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The public utilities commission shall submit ~~[a report to the legislature]~~ an update as part of its annual report submitted pursuant to section 269-5 detailing all funds received and all moneys disbursed out of the fund [prior to the convening of each regular session]."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 18, 2013.)

ACT 25

H.B. NO. 927

A Bill for an Act Relating to the Employment and Training Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the ongoing impacts of the recession are particularly challenging to the small businesses in Hawaii. Small businesses with fewer than fifty employees represent over ninety-five per cent of employer firms in the State of Hawaii according to the research and statistics office of the department of labor and industrial relations. These small businesses play an important role in job creation and have an integral role in maintaining and improving the economic situation in Hawaii.

The legislature further finds that the inability of small businesses to provide training for their workers is impeding their ability to both remain viable and grow, which would enhance economic recovery in Hawaii. The employment and training fund was established to support innovative programs developed in cooperation between business and government to assist employers and workers.

The legislature further finds that the activities supported by the employment and training fund is one avenue by which the State can support small business and further the economic recovery in Hawaii. Moreover, Governor Abercrombie's New Day efforts to support small businesses can be augmented by strengthening the use of the employment and training fund to support workforce training activities for small businesses.

The purpose of this Act is to amend the employment and training fund law to assist small businesses in business-specific training programs and industry specific training programs where there are critical skill shortages in high growth occupational or industry areas.

SECTION 2. Section 383-128, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The moneys in the employment and training fund may be used for funding:

- (1) The operation of the state employment service for which no federal funds have been allocated;
- (2) Business-specific training programs to create a more diversified job base and to carry out the purposes of the new industry training program pursuant to section 394-8[;] with emphasis on serving small businesses by serving the training needs for industries included in the State’s economic development strategy as recommended by the department of business, economic development, and tourism and training needs identified by the county workforce investment boards, employer organizations, industry or trade associations, labor organizations and similar organizations;
- (3) Industry or employer-specific training programs where there are critical skill shortages in high growth occupational or industry areas[;] with emphasis on serving small businesses by serving the training needs for industries included in the State’s economic development strategy as recommended by the department of business, economic development, and tourism and training needs identified by the county workforce investment boards, employer organizations, industry or trade associations, labor organizations and similar organizations;
- (4) Training and retraining programs to assist workers who have become recently unemployed or are likely to be unemployed;
- (5) Programs to assist residents who do not otherwise qualify for federal or state job training programs to overcome employment barriers; and
- (6) Training programs to provide job-specific skills for individuals in need of assistance to improve career employment prospects.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 18, 2013.)

ACT 26

S.B. NO. 633

A Bill for an Act Relating to Unlicensed Contracting Activities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 708-8305, Hawaii Revised Statutes, is amended to read as follows:

~~“[H]§708-8305[H]~~ **Unlicensed contractor fraud; valuation of property.** (1) For purposes of unlicensed contractor fraud, the value of the property shall be the greater of:

- ~~[(1)]~~ (a) The value of property as provided in section 708-801; or

~~[(2)]~~ (b) The total value of all moneys and any assets of value paid or lost by the victim or victims pursuant to the same scheme or course of conduct.

(2) The value of any work done by the unlicensed contractor shall not be used as an offset for the value of the property calculated under this section."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 18, 2013.)

ACT 27

H.B. NO. 411

A Bill for an Act Relating to Hospital Emergency Compassionate Care for Sexual Assault Victims.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Rape is the most under-reported violent crime. In the aftermath of rape, victims find themselves dealing with a host of reproductive and sexual health issues. The physical and emotional trauma suffered by victims is compounded by the possibility of an unwanted pregnancy as a result of the rape. The average rate of pregnancy resulting from rape is between five and eight percent with an estimated thirty-two thousand rape-related pregnancies occurring each year in the United States. However, the Department of Justice National Crime Victimization Surveys indicate that over half of all rapes are not reported to the police.

Emergency contraception is not an abortion pill, nor does it cause any abortive process to take place. Emergency contraception is a safe and effective means of preventing pregnancy after a sexual assault. In fact, the provision of emergency contraception to sexual assault victims is the most widely recognized and accepted standard of care for sexual assault victims. The American Medical Association and the American College of Obstetricians and Gynecologists have stated that sexual assault victims should be informed about and provided emergency contraception. However, a 2010 survey of emergency facilities in Hawaii revealed a lack of clear policy on the issue.

The purpose of this Act is to ensure that sexual assault victims are provided information about and access to emergency contraception when receiving emergency medical care at Hawaii's hospitals.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . COMPASSIONATE CARE FOR SEXUAL ASSAULT VICTIMS

§321-A Definitions. As used in this part, unless the context otherwise requires:

"Compulsion" means absence of consent, or a threat, express or implied, that places a person in fear of public humiliation, property damage, or financial loss.

"Department" means the department of health unless otherwise specified in this part.

"Emergency contraception" means one or more prescription drugs used separately or in combination that are:

- (1) Used postcoitally within a recommended amount of time;
- (2) Used for the purposes of preventing pregnancy; and
- (3) Approved by the United States Food and Drug Administration.

"Hospital" means any institution with an organized medical staff, regulated under sections 321-11(10) and 321-14.5, that admits patients for inpatient care, diagnosis, observation, and treatment.

"Sexual assault" means vaginal penetration without the person's consent, by compulsion or strong compulsion.

"Sexual assault victim" means a person who alleges or is alleged to have been sexually assaulted and as a result of the sexual assault presents as a patient at a hospital.

"Strong compulsion" means the use of or attempt to use one or more of the following to overcome a person:

- (1) A threat, express or implied, that places a person in fear of bodily injury to the person or another person, or in fear that the person or another person will be kidnapped;
- (2) A dangerous instrument; or
- (3) Physical force.

§321-B Compassionate care. (a) Any hospital at which a female sexual assault victim presents for emergency services shall:

- (1) Provide any female sexual assault victim with medically and factually accurate and unbiased written and oral information about emergency contraception;
- (2) Orally inform each female sexual assault victim of the option to receive emergency contraception at the hospital;
- (3) When medically indicated, offer emergency contraception to each female sexual assault victim;
- (4) Dispense a complete course of emergency contraception to each female sexual assault victim who accepts or requests it; and
- (5) Ensure that providers who may prescribe or administer emergency contraception shall be trained to provide a female sexual assault victim with medically and factually accurate and unbiased written and oral information about emergency contraception and sexual assault treatment options and access to emergency contraception.

(b) No hospital shall deny a female sexual assault victim emergency contraception based on a refusal to undergo a forensic examination or a refusal to report the alleged sexual assault to law enforcement.

(c) No hospital shall be required to dispense emergency contraception to a female sexual assault victim who has been determined to be pregnant through the administration by the hospital staff of a pregnancy test approved by the United States Food and Drug Administration.

(d) If private insurance is not or cannot be utilized for payment, the cost of any emergency contraception dispensed pursuant to this part shall be paid by the department of human services.

§321-C Enforcement; administrative penalties. (a) The department may set, charge, and collect administrative fines and recover administrative fees and costs, including attorney's fees and costs, resulting from a violation of this part or any rule adopted under this part.

(b) The department shall:

- (1) Establish a policy and procedures to monitor compliance with this part, including a complaint process;
- (2) Respond to any complaint received by the department concerning noncompliance by a hospital with the requirements of section 321-B; and
- (3) Provide written notice to any hospital that the department determines is in violation of this part or any rule adopted under this part, including notice of an opportunity to take corrective action.

(c) Any hospital that violates this part or any rule adopted under this part after receiving written notice and an opportunity to take corrective action pursuant to subsection (b)(3) shall be fined not more than \$1,000 for each separate offense.

(d) All enforcement processes shall comply with section 321-20.

(e) Sanctions under this section shall not be issued for violations occurring before July 1, 2014.

§321-D Rules. The department may adopt rules under chapter 91 for the purposes of this part."

SECTION 3. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 22, 2013.)

ACT 28

S.B. NO. 409

A Bill for an Act Relating to Mahina 'Ōlelo Hawai'i.

Be It Enacted by the Legislature of the State of Hawaii:

MAHELE 1. 'O ka 'ōlelo Hawai'i ka 'ōlelo 'ōiwi o ka lāhui Hawai'i.

'Oiai ua 'ōlelo mau 'ia ka 'ōlelo Hawai'i o ka 'āina e nā kupa o ke aupuni Hawai'i, ua hele a 'ane halapohe ka 'ōlelo 'ana i ua 'ōlelo la ma ka hiki 'ana aku i ka makahiki 1980 a ua koe wale mai ma kahi o ke kanalima mau mānaleo o ka 'ōlelo e ola nei ma lalo o ka piha makahiki he umi kumamawalu. 'O kekahi kumu o ka emi nui o ka 'ōlelo Hawai'i 'o ia nō ke kāmāwai o ka makahiki 1896 i ho'onohe i ka 'ōlelo pelekānia 'o ia wale nō ka 'ōlelo o ke kula. Eia na'e ka hopena, ua ho'opāpā 'ia ka 'ōlelo 'ana, ka heluhelu 'ana, ke kākau 'ana a me ke a'o 'ana i ka 'ōlelo Hawai'i ma nā kula aupuni.

I mea e ho'ōla a'e ai i ka 'ōlelo Hawai'i, ua ho'olana 'ia aku la kekahi mau hāpai kāmāwai ho'ōla 'ōlelo Hawai'i a me nā hana huliāmahi e ho'ōlulu a'e i ka 'ōlelo Hawai'i e like me ka 'aukahi Pūnana Leo, ka papahana Kula Kaiapuni o ke Ke'ena Ho'ona'auao, a me nā papahana 'ōlelo Hawai'i ma ke Kula Nui 'o Hawai'i.

Eia kekahi, ma ka makahiki 1978, ua pāku'i ho'ololi 'ia iho ka Palapala Kumukāmāwai o ka Moku'āina 'o Hawai'i me ka ho'ololi 'ōlelo pāku'i e

hō'ōia'i'o aku i ke kūlana o ka 'ōlelo Hawai'i he 'ōlelo kūhelu i like kona kūlana me ka 'ōlelo pelekania—'o lāua nā 'ōlelo kūhelu o ka moku'āina.

Eia hou kekahi, ua ho'olaha a ho'ohanahanao 'ia a'e la ka 'Ōlelo Hawai'i ma loko o 'elua mau palapala kūkala ko'iko'i e ke kia'āina ma nā makahiki o nā 1990. Ma ka makahiki 1995, ua ho'opuka 'ia aku la kekahi palapala kūkala mai ke ke'ena kia'āina mai a ua kākau 'ia mai ma nā 'ōlelo kūhelu 'elua o ka 'āina, Hawai'i me ka Pelekania, 'o ka mahina 'o Pepeluali 1995 ka "Mahina 'Ōlelo Hawai'i ma Hawai'i Nei". Ua koi aku kēia palapala kūkala i ka lehulehu e komo aku, komo mai i nā hanana 'ōlelo Hawai'i like 'ole i mālama 'ia ma ka mahina o Pepeluali. 'O nā hanana Hawai'i i mālama 'ia ma Pepeluali ka Lā 'Ohana, ka Lā Kūkahekahe, a me ka 'Ahamele 'o Ho'omau ma O'ahu.

Ma ka makahiki 1996, ua kūkala 'ia kekahi palapala kuahaua e ke kia'āina e nānā i ka makahiki 1996 'o ia ka "Makahiki o ka 'Ōlelo Hawai'i" i mea e ho'omana'o ai i ka hala 'ana o haneli mau makahiki ma hope o ke kānāwai 1896 'o ia kānāwai ho'opāpā 'ōlelo kūpuna ma nā kula o Hawai'i nei.

'Oia i ua holomua nō kēia 'aukahi ho'ōla 'ōlelo Hawai'i ma loko o kēia mau makahiki he kanakolu i hala iho nei, he pono nō ho'i ka ho'onui 'ana i nā kānaka 'ōlelo Hawai'i i mea e ho'olaupa'i 'ia ai a ola nō ka 'ōlelo Hawai'i.

'O ke kumuhana o kēia kānāwai ka ho'onoho pono 'ana mai i ka mahina o Pepeluali 'o ia ka "Mahina 'Ōlelo Hawai'i" a lilo ia i mea e ho'omaika'i a e paipai a'e mau ai i ka 'ōlelo 'ana i ka 'ōlelo Hawai'i.

MAHELE 2. Mokuna 8, Nā 'Ōlelo Kūpa'a O Hawai'i, ua ho'oponopono 'ia me ka ho'opāku'i 'ana i mahele hou e ho'onoho kūpono a e heluhelu 'ia ana penei:

§8- Mahina 'Ōlelo Hawai'i. E 'ike mau a e kapa 'ia ana ae ka mahina 'o Pepeluali 'o ia ka "Mahina 'Ōlelo Hawai'i" i mea e ho'omaika'i a e paipai aku ai i ka 'ōlelo 'ana o ua 'ōlelo makuahine nei la. 'A'ole e kū ana kēia mahina i kapa 'ia ka "Mahina 'Ōlelo Hawai'i" i lānui o ka moku'āina o Hawai'i.

§8- 'Ōlelo Hawai'i Month. The month of February shall be known and designated as "'Ōlelo Hawai'i Month" to celebrate and encourage the use of Hawaiian language. This month is not and shall not be construed as a state holiday."

MAHELE 3. Ua kahalina 'ia nā mahele pili kānāwai hou.

MAHELE 4. E ka'a ana kēia Kānāwai ma kona 'āpono 'ia 'ana.

(English translation)

SECTION 1. 'Ōlelo Hawai'i, or the Hawaiian language, is the native language of the Native Hawaiian people.

While once spoken throughout Hawai'i by Native Hawaiians and foreigners alike, 'Ōlelo Hawai'i was considered to be nearly extinct by the 1980s, when fewer than fifty fluent speakers under the age of eighteen were left. A major reason for the deterioration of the Hawaiian language was an 1896 law that required English instruction in Hawai'i schools. In practice, this law functioned to "ban" students from speaking 'Ōlelo Hawai'i at their schools.

To save the Hawaiian language, a number of historic initiatives were launched, including 'Aha Pūnana Leo's Hawaiian language immersion pre-schools, the department of education's Hawaiian language immersion program, and the Hawaiian language programs of the University of Hawai'i system.

In addition, in 1978, the Hawai'i constitution was amended to recognize the Hawaiian language as one of the two official languages of the State.

Furthermore, several important gubernatorial proclamations on 'Ōlelo Hawai'i were issued in the 1990s. In 1994 and 1995, gubernatorial proclamations, written in both Hawaiian and English, were issued recognizing February 1994 and February 1995 as "Hawaiian Language Month in Hawai'i". The proclamations urged people to participate in the Hawaiian language activities held in February. Hawaiian language events held in February at that time included Lā 'Ohana, Lā Kūkahekahe and O'ahu's Ho'omau concert.

The following year, another gubernatorial proclamation was issued that recognized 1996 as "Year of the Hawaiian Language" in observance of a century passing since the enactment of the 1896 law that prohibited speaking Hawaiian language in Hawai'i schools.

While the Hawaiian language revitalization movement has made major strides in the last thirty years, for 'Ōlelo Hawai'i to not just survive, but to also thrive, more people need to speak Hawaiian.

The purpose of this Act is to designate the month of February as "'Ōlelo Hawai'i Month" to celebrate and encourage the use of Hawaiian language.

SECTION 2. Chapter 8, Hawai'i Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§8- Mahina 'Ōlelo Hawai'i. E 'ike mau a e kapa 'ia ana ae ka mahina 'o Pepeluali 'o ia ka "Mahina 'Ōlelo Hawai'i" i mea e ho'omaika'i a e paipai aku ai i ka 'ōlelo 'ana o ua 'ōlelo makuahine nei la. 'A'ole e kū ana kēia mahina i kapa 'ia ka "Mahina 'Ōlelo Hawai'i" i lānui o ka moku'āina o Hawai'i.

§8- 'Ōlelo Hawai'i Month. The month of February shall be known and designated as "'Ōlelo Hawai'i Month" to celebrate and encourage the use of Hawaiian language. This month is not and shall not be construed as a state holiday."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved April 22, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 29

S.B. NO. 891

A Bill for an Act Relating to Notaries Public.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 456-3, Hawaii Revised Statutes, is amended to read as follows:

"§456-3 Seal. Every notary public shall constantly keep an engraved seal of office or a rubber stamp facsimile seal which shall clearly show, when embossed, stamped, or impressed upon a document, only the notary's name,

the notary's commission number, and the words, "notary public" and "State of Hawaii". The notary public shall authenticate all the notary's official acts, attestations, certificates, and instruments therewith, and shall always add to an official signature the typed or printed name of the notary and a statement showing the date that the notary's commission expires. Upon resignation, death, expiration of term of office without reappointment, or removal from or abandonment of office, the notary public shall immediately deliver the notary's seal to the attorney general who shall deface or destroy the same. If any notary fails to comply with this section within ninety days of the date of the notary's resignation, expiration of term of office without reappointment, or removal from or abandonment of office or if the notary's personal representative fails to comply with this section within ninety days of the notary's death, then the notary public or the notary's personal representative shall forfeit to the State not more than \$200, in the discretion of the court, to be recovered in an action to be brought by the attorney general on behalf of the State."

SECTION 2. Section 456-9, Hawaii Revised Statutes, is amended to read as follows:

"§456-9 Fees and administrative fines. (a) The attorney general shall charge and collect the following fees for:

- (1) Issuing the original commission, \$40; and
- (2) Renewing the commission, \$40.

~~[Notwithstanding the foregoing, the attorney general may establish and adjust fees]~~ These fees may be adjusted, and any other fees may be established and adjusted, by adopting rules pursuant to chapter 91.

(b) The court fees for filing a copy of a commission and for each certificate of authentication shall be specified by the supreme court.

(c) The attorney general may impose and collect the following administrative fines for a notary public's failure to:

- (1) Maintain an official seal of one type, either a single engraved seal or a single rubber stamp facsimile seal, on which shall be inscribed the name of the notary public, the commission number of the notary public, and the words "notary public" and "State of Hawaii" only, \$20;
- (2) Surrender the notary public's seal and certificate to the attorney general within ninety days of resignation, removal from office, or the expiration of a term without renewal, \$200;
- (3) Authenticate every acknowledgment or jurat with a certificate that shall be signed and dated by the notary, include the printed name and official stamp or seal of the notary, identify the jurisdiction in which the notarial act is performed, describe in close proximity to the acknowledgment or jurat the document being notarized, and state the number of pages and date of the document, \$500;
- (4) Record all of the notary public's transactions as prescribed by section 456-15 and applicable rules, \$200;
- (5) Surrender the notary public's record books to the attorney general within ninety days of the end date of the commission, resignation, or removal from office, \$500; and
- (6) Notify the attorney general within ten days after loss, misplacement, or theft of the notary public's seal, stamp, or any record book, inform the appropriate law enforcement agency in the case of theft, and deliver a copy of the law enforcement agency's report of the theft to the attorney general, \$20.

(d) The foregoing moneys collected by the attorney general pursuant to this section shall be deposited into the notaries public revolving fund established by section 456-9.5, except that if that fund is terminated, the foregoing moneys shall thereafter be deposited with the director of finance to the credit of the general fund."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 22, 2013.)

ACT 30

H.B. NO. 919

A Bill for an Act Relating to State Employment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The civil service to which this chapter applies shall comprise all positions in the State now existing or hereafter established and embrace all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard that are required by state or federal laws or regulations or orders of the national guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of

- the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit court of the first circuit, two additional law clerks for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
 - (11) (A) Teachers, principals, vice-principals, complex area superintendents, deputy and assistant superintendents, other certificated personnel, not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work;
 - (B) Effective July 1, 2003, teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists, alternative school project coordinators, and communications aides in the department of education;
 - (C) The special assistant to the state librarian and one secretary for the special assistant to the state librarian; and
 - (D) Members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
 - (12) Employees engaged in special, research, or demonstration projects approved by the governor;
 - (13) (A) Positions filled by inmates, [kokuas,] patients of state institutions, persons with severe physical or mental [~~handicaps~~] disabilities participating in the work experience training programs[, and students and positions filled through federally funded programs];
 - (B) Positions filled with students in accordance with guidelines for established state employment programs; and
 - (C) Positions that provide work experience training or temporary public service employment that are filled by persons entering the workforce or persons transitioning into other careers under programs such as the federal [Comprehensive Employment and Training Act of 1973;] Workforce Investment Act of 1998.

as amended, or the Senior Community Service Employment Program of the Employment and Training Administration of the United States Department of Labor, or under other similar state programs;

- (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the state constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during meal periods in the distribution, collection, and counting of meal tickets, and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the Hawaii public housing authority; provided that except during the time period specified in paragraph (27), not more than twenty-six per cent of the authority's work force in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
- (23) Positions filled by ~~severely handicapped~~ persons with severe disabilities who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
- (24) The sheriff;
- (25) A gender and other fairness coordinator hired by the judiciary;
- (26) Positions in the Hawaii national guard youth and adult education programs; and
- (27) From July 1, 2012, to June 30, 2015, persons hired or contracted to perform repair, maintenance, or capital improvement projects work

ACT 31

on vacant housing units under the jurisdiction of the Hawaii public housing authority.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 2. Section 78-2.6, Hawaii Revised Statutes, is amended to read as follows:

"[§78-2.6] Prospective employees; suitability for public employment. All prospective employees, regardless of the positions they will assume, shall demonstrate their suitability for public employment by:

- (1) Passing a pre-employment controlled substance drug test if required by the employing jurisdiction; and
- (2) Attesting that during the three-year period immediately preceding the date of application for employment, the person was not convicted of any controlled substance-related offense.

If an applicant fails to meet the suitability requirements of the employing jurisdiction, the applicant shall be disqualified from further employment consideration or deemed ineligible for appointment under section 76-29 on the basis of unsuitability for public employment.

Notwithstanding paragraph (2), for positions described in section 76-16(b)(13)(C), an applicant shall not be automatically disqualified from employment based on a controlled-substance-related offense, provided that reasonable safeguards are in place to protect employees and the public."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that the amendments made to section 76-16(b), Hawaii Revised Statutes, by this Act shall not be repealed when section 76-16(b) is reenacted on July 1, 2015, pursuant to Act 159, Session Laws of Hawaii 2012.

(Approved April 22, 2013.)

ACT 31

S.B. NO. 870

A Bill for an Act Relating to Use of Force by Persons with Special Responsibility for Care, Discipline, or Safety of Others.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 703-309, Hawaii Revised Statutes, is amended to read as follows:

"§703-309 Use of force by persons with special responsibility for care, discipline, or safety of others. The use of force upon or toward the person of another is justifiable under the following circumstances:

- (1) The actor is the parent [ø], guardian, or other person similarly responsible for the general care and supervision of a minor, or a person acting at the request of the parent, guardian, or other responsible person, and:

- (a) The force is employed with due regard for the age and size of the minor and is reasonably related to the purpose of safeguarding or promoting the welfare of the minor, including the prevention or punishment of the minor's misconduct; provided that there shall be a rebuttable presumption that the following types of force are not justifiable for purposes of this subsection: throwing, kicking, burning, biting, cutting, striking with a closed fist, shaking a minor under three years of age, interfering with breathing, or threatening with a deadly weapon; and
- (b) The force used ~~[is not designed to cause or known to]~~ does not intentionally, knowingly, recklessly, or negligently create a risk of causing substantial bodily injury, disfigurement, extreme pain or mental distress, or neurological damage.
- (2) The actor is a principal, the principal's agent, a teacher, or a person otherwise entrusted with the care or supervision for a special purpose of a minor, and:
 - (a) The actor believes that the force used is necessary to further that special purpose, including maintenance of reasonable discipline in a school, class, other group, or at activities supervised by the department of education held on or off school property and that the use of force is consistent with the welfare of the minor; and
 - (b) The degree of force, if it had been used by the parent or guardian of the minor, would not be unjustifiable under paragraph ~~[(1)(b):]~~ (1).
- (3) The actor is the guardian or other person similarly responsible for the general care and supervision of an incompetent person, and:
 - (a) The force is employed with due regard for the age and size of the incompetent person and is reasonably related to the purpose of safeguarding or promoting the welfare of the incompetent person, including the prevention of the incompetent person's misconduct, or, when such incompetent person is in a hospital or other institution for the incompetent person's care and custody, for the maintenance of reasonable discipline in the institution; and
 - (b) The force used is not designed to cause or known to create a risk of causing substantial bodily injury, disfigurement, extreme pain or mental distress, or neurological damage.
- (4) The actor is a doctor or other therapist or a person assisting the doctor or therapist at the doctor's or therapist's direction, and:
 - (a) The force is used for the purpose of administering a recognized form of treatment which the actor believes to be adapted to promoting the physical or mental health of the patient; and
 - (b) The treatment is administered with the consent of the patient, or, if the patient is a minor or an incompetent person, with the consent of the minor's or incompetent person's parent or guardian or other person legally competent to consent in the minor's or incompetent person's behalf, or the treatment is administered in an emergency when the actor believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.
- (5) The actor is a warden or other authorized official of a correctional institution, and:

- (a) The actor believes that the force used is necessary for the purpose of enforcing the lawful rules or procedures of the institution; and
 - (b) The nature or degree of force used is not forbidden by other provisions of the law governing the conduct of correctional institutions; and
 - (c) If deadly force is used, its use is otherwise justifiable under this chapter.
- (6) The actor is a person responsible for the safety of a vessel or an aircraft or a person acting at the direction of the person responsible for the safety of a vessel or an aircraft, and:
- (a) The actor believes that the force used is necessary to prevent interference with the operation of the vessel or aircraft or obstruction of the execution of a lawful order, unless the actor's belief in the lawfulness of the order is erroneous and the actor's error is due to ignorance or mistake as to the law defining authority; and
 - (b) If deadly force is used, its use is otherwise justifiable under this chapter.
- (7) The actor is a person who is authorized or required by law to maintain order or decorum in a vehicle, train, or other carrier, or in a place where others are assembled, and:
- (a) The actor believes that the force used is necessary for that purpose; and
 - (b) The force used is not designed to cause or known to create a substantial risk of causing death, bodily injury or extreme mental distress."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2013.

(Approved April 22, 2013.)

ACT 32

S.B. NO. 306

A Bill for an Act Relating to Medicaid.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 200, Session Laws of Hawaii 2012, section 2, is amended as follows:

1. By amending subsection (e) to read:

"(e) The task force shall submit [a] an interim and final report of its findings, program recommendations, and proposed legislation, if any, to the legislature no later than twenty days prior to the convening of the 2013 and 2014 regular ~~[session-]~~ sessions, respectively. The legislative reference bureau shall assist the task force in drafting the ~~[report]~~ reports and any proposed legislation to implement the task force's recommendations; provided that the task force shall

submit a draft of the interim and final report and any proposed legislation to the bureau no later than November 1, 2012~~[-]~~, and November 1, 2013, respectively."

2. By amending subsection (h) to read:

"(h) The task force shall be dissolved on June 30, ~~[2013-]~~ 2014."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on June 29, 2013.

(Approved April 22, 2013.)

ACT 33

S.B. NO. 1187

A Bill for an Act Relating to Delinquent Taxes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that, currently, if an account is uncollectible, the department of taxation must wait two years before the account is deemed uncollectible. This creates undue stress and anxiety to the taxpayer who may have health or other insurmountable financial problems. The legislature believes that authorizing the department of taxation to consider various factors, other than the two-year time limit in determining when an account is uncollectible, will permit the department to concentrate on the accounts that will likely generate the greatest recovery to the State. This approach will also relieve the department of the need to track numerous small claims when the costs of collection, including employee time, will exceed any expected recovery.

The purpose of this Act is to set a reasonableness standard for deeming taxes uncollectible, rather than waiting for the minimum two-year period currently required by statute.

SECTION 2. Section 231-32, Hawaii Revised Statutes, is amended to read as follows:

"§231-32 Records of delinquent taxes, uncollectible delinquent taxes. The department of taxation shall prepare and maintain, open to public inspection, a complete record of the amounts of taxes assessed in each district that have become delinquent with the name of the delinquent taxpayer in each case, but it shall not be necessary to periodically compute on the records the amount of penalties and interest upon delinquent taxes.

The department ~~[may]~~, from time to time, may prepare lists of all ~~[taxes]~~ delinquent ~~[which]~~ taxes that in its judgment are uncollectible. ~~[Such taxes as]~~ Taxes that the department finds to be uncollectible shall be entered in a special record and be deleted from the other books kept by the department~~[-and the]~~. The department shall ~~[thereupon]~~ then be released from any further ~~[accountability for their collection; provided that no]~~ duty to collect these taxes. No account shall be [so] deleted [until it shall have been delinquent for at least two years.] unless the department finds that there is reasonable cause to delete the account, considering factors such as the financial condition of the taxpayer, inability to locate the taxpayer, costs of collection against the amount of tax owed, health of the taxpayer, and future income prospects of the taxpayer. Any items ~~[so]~~ written off may be transferred back to the delinquent tax roll if the depart-

ment finds that the alleged facts as previously presented to it were not true[;] or that [such] the items are in fact collectible.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall take effect retroactive to January 1, 2013.

(Approved April 22, 2013.)

ACT 34

S.B. NO. 1040

A Bill for an Act Relating to Electric Systems.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Hawaii’s progress toward the widespread use of renewable energy requires modernized electrical infrastructure supported by nimble, robust technology capable of servicing the evolving needs of the grid. Advanced grid modernization technology offers numerous benefits in the face of heavy renewable energy penetration that include increased electrical system reliability and operational efficiency from enhanced system responsiveness and interoperability at the transmission level and below, as well as improved customer energy efficiency practices encouraged by the availability of timely end use energy information. In addition, the increased scale, speed, and accuracy of the information provided by advanced grid infrastructure systems can better support initiatives to break the State’s petroleum dependence, such as increased distributed generation and demand response programs. Electricity providers on Maui and Kauai have already begun deploying advanced residential metering technology with the support of substantial federal funding, but the State lacks a unifying policy for the implementation of advanced grid modernization technology. The State’s achievements in strengthening the Hawaii electric system – including the continued development and potential delivery of increased renewable energy resources across the islands, as well as the ongoing creation of transparent, effective system rules – must be accompanied by policies for a comprehensive enhancement of all aspects of the system, including the implementation of advanced grid modernization technology.

The purpose of this Act is to establish a policy for the State of Hawaii in support of the implementation of advanced grid modernization technology.

SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding to part IX a new section to be appropriately designated and to read as follows:

“§269- **Advanced grid modernization technology; principles.** The commission, in carrying out its responsibilities under this chapter, shall consider the value of improving electrical generation, transmission, and distribution systems and infrastructure within the State through the use of advanced grid modernization technology in order to improve the overall reliability and operational efficiency of the Hawaii electric system.”

SECTION 3. Section 269-141, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Advanced grid modernization technology” means equipment, facilities, and associated processes that individually or collectively function to improve the reliability, resiliency, flexibility, and efficiency of the Hawaii electric system. Advanced grid modernization technology provides functional characteristics that improve the operational capability of the Hawaii electric system, including but not limited to automatic restoration of electrical service in response to power disturbance events, greater enabling of participation in utility customer programs, resilient operation against both physical and cyber-based attacks, the ability to satisfy power quality requirements of new technologies and end users, accommodation of energy generation and storage choices, enabling of innovative products and services in electricity markets, improving customer energy efficiency practices encouraged by the availability of timely energy use information, and optimization of assets and improving the operational efficiency of the Hawaii electric system.”

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved April 22, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 35

S.B. NO. 1075

A Bill for an Act Relating to Physical Therapy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 461J, Hawaii Revised Statutes, is amended by adding seven new sections to be appropriately designated and to read as follows:

“§461J- Continuing competence. (a) Beginning with the December 31, 2016, renewal, each licensed physical therapist shall be required to obtain at least thirty units of approved continuing competence units in each two-year license renewal period, where one continuing competence unit is equivalent to at least fifty minutes of classroom or hands on instruction.

(b) For first-time license renewals, if the initial license was issued less than twelve months prior to the renewal date, no continuing competence units will be required for the first renewal period. If the initial license was issued more than twelve months prior to the renewal date, the licensee shall be required to obtain fifteen units of approved continuing competence units for the first renewal period.

(c) At the time of renewal, each licensee shall submit evidence of completing the required continuing competence units to the board or agency designated by the board. Failure to present evidence of compliance at the time of renewal shall constitute a forfeiture of the license, which may be restored only upon written application and payment to the board of a restoration fee and proof of compliance with continued competence requirements.

(d) The board may randomly audit a licensee's continuing competence units, and may establish guidelines for random audits in rules adopted in accordance with chapter 91.

§461J- Content standards of continuing competence. (a) Continuing competence units shall be obtained in subjects related to either the professional practice of physical therapy or patient/client management.

(b) The "professional practice of physical therapy" includes but is not limited to professional accountability, professional behavior, and professional development.

(c) "Patient/client management" includes but is not limited to examination, evaluation, diagnosis, and prognosis; plan of care; implementation; education; and discharge.

§461J- Continuing competence subject matter requirements and other limitations. For each renewal period, a licensee's continuing competence units shall include the following:

- (1) Two units in ethics, laws, and rules (jurisprudence), or some combination thereof; and
- (2) Four units in life support for health care professionals; provided that such training shall be comparable to, or more advanced than, the American Heart Association's basic life support health care provider course.

§461J- Authorized providers of continuing competence units. Continuing competence units shall be obtained from a provider or agency approved by the board, including but not limited to:

- (1) Continuing education courses, including home and self study courses, obtained from an agency recognized by the board;
- (2) College coursework from an educational institution accredited by the United States Department of Education or other agency recognized by the board; and
- (3) Other competence related activities approved by the board or an agency recognized by the board.

§461J- Exemption from continuing competence requirements. (a) Prior to the expiration of a renewal period, a licensee may submit a written request to the board for an exemption from the continuing competence requirements in this chapter.

(b) The request for an exemption shall include the following information:

- (1) Evidence that, during the two-year period prior to the expiration of the license, the licensee was residing in another country for one year or longer, reasonably preventing completion of the continuing competence requirements;
- (2) Evidence that, during the two-year period prior to the expiration of the license, the licensee was ill or disabled for one year or longer as documented by a licensed physician, surgeon, or clinical psychologist, preventing completion of the continuing competence requirements; or
- (3) Evidence that, during the two-year period prior to the expiration of the license, a dependent family member of the licensee was ill or disabled for one year or longer as documented by a licensed physician, surgeon, or clinical psychologist, preventing completion of the continuing competence requirements.

(c) The above exemptions shall not be granted for more than one renewal period. In the event a licensee cannot complete the continuing competence requirements during the two-year period after receiving an exemption, the licensee may only renew the license on an inactive status.

(d) When a licensee is absent from the State because of military service for a period of one year or longer during the two-year renewal period, preventing completion of the continuing competence requirement, the board may provide an exemption from the continuing competence requirement for more than one renewal period.

§461J- Inactive status. (a) A licensee may apply in writing to have the licensee's license placed on inactive status. While on inactive status, the licensee shall not engage in the practice of physical therapy.

(b) A license on inactive status shall be renewed during the same time period as active licenses. While on inactive status, the licensee shall not be required to comply with the continuing competence requirements in this chapter.

(c) To reactivate a license on inactive status, the licensee shall:

(1) Pay the renewal and any applicable fees; and

(2) Have obtained continuing competence units equivalent to that required for a single renewal period of an active license within the last two years prior to applying to restore the license to active status.

(d) The inactive status of any licensee shall not deprive the board of its authority to institute or continue any disciplinary or enforcement action against the licensee.

§461J- Record keeping for continuing competence. (a) Each licensee shall keep and maintain records showing that each course or activity for which credit is claimed has been completed.

(b) These records shall reflect the title of the course or activity, the date taken or completed, and the record of participation.

(c) Each licensee shall retain such documentation for a period of seven years after the course or activity concludes.

(d) Each licensee shall provide copies of such documentation to the board or its designee within fourteen calendar days after being requested to provide such documentation."

SECTION 2. Section 461J-1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

"Competence" is the application of knowledge, skills, and behaviors required to function effectively, safely, ethically, and legally within the context of the individual's role and environment.

"Continuing competence" is the lifelong process of maintaining and documenting competence through ongoing self-assessment, development, and implementation of a personal learning plan, and subsequent reassessment.

"Unit" is a relative value assigned to continuing competence activities in which one continuing competence unit is equivalent to at least fifty minutes of classroom or hands on instruction."

SECTION 3. Section 461J-10, Hawaii Revised Statutes, is amended to read as follows:

~~[[§461J-10]]~~ Biennial renewal; failure to renew. (a) The biennial renewal fee shall be paid to the department of commerce and consumer affairs on or before December 31 of each even-numbered year. Failure, neglect, or refusal of any licensee to pay the biennial renewal fee on or before such date shall constitute a forfeiture of the license.

(b) A forfeited license may be restored upon written application within one year from the date of forfeiture, provision of proof of completion of the re-

quired continuing competence units, and the payment of the delinquent fee plus an amount equal to fifty per cent of the delinquent fee.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 5. This Act, upon its approval, shall take effect on December 31, 2016.

(Approved April 22, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 36

S.B. NO. 1076

A Bill for an Act Relating to the Use of the Doctor of Acupuncture Title.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 436E-13, Hawaii Revised Statutes, is amended to read as follows:

“§436E-13 Use of titles. (a) A licensee who has been awarded a license to practice acupuncture by the board in this State may use the title of “Licensed Acupuncturist” or designation “L.Ac.” with the licensee’s name in an advertisement for acupuncture or announce or append the designation to the licensee’s name.

(b) A licensee who has been awarded an earned doctoral degree may use the designation “Ph.D.” in an advertisement for acupuncture or announce or append the designation to the licensee’s name if the degree was granted from a university or college recognized by a regional or national accrediting body recognized by the United States Department of Education. A Ph.D. recognized by the board under this subsection shall designate a nonpractitioner as opposed to a practitioner or “doctor” of acupuncture as provided in subsection (c).

(c) ~~[A licensee who has been awarded an earned doctoral degree from a university or college recognized by a regional or national accrediting body recognized by the United States Department of Education, or who has completed a program approved by the board in the study or practice of acupuncture (traditional oriental medicine), and who has met the standards for the use of academic designations as developed by the board may use the designation “Doctor”, the prefix, “Dr.”, or the designation “D.Ac.”; provided that the word “Acupuncturist” immediately follows the licensee’s name if the designation “Doctor” or the prefix “Dr.” is used alone. The board shall establish the standards required for the use of these academic designations in its rules. The rules shall provide for a time period to enable a licensee to meet the requirements for the continued use of the academic designations and shall prohibit the use of the designations after that period unless those requirements are met.]~~ A licensee who has been approved by the board to use the doctor of acupuncture title, may use the title “Doctor of Acupuncture” or designation of “D.Ac.”, after the licensee’s name, or the term “Doctor” or prefix “Dr.” provided that the word “Acupuncturist” immediately follows the licensee’s name if the term “Doctor”, or the prefix “Dr.” is used alone.

(d)¹ Before any licensee shall be eligible to use the doctor of acupuncture title, the licensee shall furnish satisfactory proof to the board that the licensee has been awarded an earned doctoral degree in acupuncture (traditional oriental medicine). For licensees who graduated from an institute, school, or college located in the United States or any territory under the jurisdiction of the United States, the institute, school, or college shall be accredited or recognized as a candidate for accreditation by a regional or national accrediting body that is recognized by the United States Department of Education for the accreditation or pre-accreditation ("candidacy") of professional post-graduate doctoral programs in acupuncture and oriental medicine. For licensees who graduated from a foreign institute, school, or college, the licensee, at the licensee's own expense, shall have the licensee's transcripts and curriculum evaluated by a board approved and designated professional evaluator who shall make a determination on whether the transcripts and curriculum are at least equivalent to the United States recognized doctoral program of study in acupuncture and oriental medicine, and that the foreign institute is licensed, approved, or accredited by the appropriate governmental authority or an agency recognized by a governmental authority in the respective foreign jurisdiction and whose curriculum is approved by the board.

[(d)] (e) Except as provided in this section, use of other titles, prefixes, or designations shall not be permitted."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 2013.)

Note

1. Should be underscored.

ACT 37

S.B. NO. 120

A Bill for an Act Relating to Public Utilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that electricity rates in the State are at record levels, due in large part to the high cost of petroleum used to fuel electric generation plants on all islands. In addition, electric utility operating expenses have substantially increased in recent years while electric sales have declined. The consequences of those circumstances have led to further electricity rate increases. Electric ratepayers are demanding immediate relief from increasing electricity rates. It is therefore imperative that Hawaii's electric utilities accelerate their efforts to acquire lower cost clean energy resources and reduce existing energy and other utility operating expenses.

The legislature further finds that as the electric utility business model evolves, existing regulatory cost recovery mechanisms neither provide sufficient economic incentives to induce electric utilities to reduce energy and operating costs nor financially reward them if these cost reductions are self-initiated and substantial. For example, energy costs are recovered from customers through the energy cost adjustment clause, which is a direct cost recovery pass through

mechanism, without the ability for electric utilities to earn a profit or a mark-up on energy cost recovery. Therefore, electric utilities are not incentivized to aggressively reduce energy costs or seek lower cost alternatives or efficiency gains.

The legislature additionally finds that the current electric ratemaking process employs a single authorized rate of return that is applied equally to all utility plant investments. This methodology does not differentiate between plant investments to modernize the electric grid, which should be encouraged, and investments to preserve old, inefficient fossil generation, which should be discouraged. Retiring old, inefficient utility fossil generation acts as a financial disincentive for electric utilities because the electric utilities can only earn a return on plant investment that is actually used and useful to provide utility service. The early retirement of utility fossil generation may create costs that are stranded and cannot be recovered from ratepayers. The continued operation of old, inefficient utility fossil generation therefore preserves existing utility financial returns.

The legislature concludes that it is necessary for the public utilities commission to consider and implement economic incentive mechanisms, where appropriate, to induce electric utility actions to reduce energy cost and operating expenses and to enable the maximum integration of lower cost renewable energy resources.

The purpose of this Act is to authorize the public utilities commission to establish a policy to implement economic incentives and cost recovery regulatory mechanisms, as necessary and appropriate, to induce and accelerate electric utilities' cost reduction efforts, encourage greater utilization of renewable energy, accelerate the retirement of utility fossil generation, and increase investments to modernize the State's electrical grids.

SECTION 2. Section 269-6, Hawaii Revised Statutes, is amended to read as follows:

"§269-6 General powers and duties. (a) The public utilities commission shall have the general supervision hereinafter set forth over all public utilities, and shall perform the duties and exercise the powers imposed or conferred upon it by this chapter. Included among the general powers of the commission is the authority to adopt rules pursuant to chapter 91 necessary for the purposes of this chapter.

(b) The public utilities commission shall consider the need to reduce the State's reliance on fossil fuels through energy efficiency and increased renewable energy generation in exercising its authority and duties under this chapter. In making determinations of the reasonableness of the costs of utility system capital improvements and operations, the commission shall explicitly consider, quantitatively or qualitatively, the effect of the State's reliance on fossil fuels on price volatility, export of funds for fuel imports, fuel supply reliability risk, and greenhouse gas emissions. The commission may determine that short-term costs or direct costs that are higher than alternatives relying more heavily on fossil fuels are reasonable, considering the impacts resulting from the use of fossil fuels.

(c) In exercising its authority and duties under this chapter, the public utilities commission shall consider the costs and benefits of a diverse fossil fuel portfolio and of maximizing the efficiency of all electric utility assets to lower and stabilize the cost of electricity. Nothing in this section shall subvert the obligation of electric utilities to meet the renewable portfolio standards set forth in section 269-92.

(d) The public utilities commission, in carrying out its responsibilities under this chapter, shall consider whether the implementation of one or more of

the following economic incentives or cost recovery mechanisms would be in the public interest:

- (1) The establishment of a shared cost savings incentive mechanism designed to induce a public utility to reduce energy costs and operating costs and accelerate the implementation of energy cost reduction practices;
- (2) The establishment of a renewable energy curtailment mitigation incentive mechanism to encourage public utilities to implement curtailment mitigation practices when lower cost renewable energy is available but not utilized through the sharing of energy cost savings between the public utility, ratepayer, and affected renewable energy projects;
- (3) The establishment of a stranded cost recovery mechanism to encourage the accelerated retirement of an electric utility fossil fuel electric generation plant by allowing an electric utility to recover the stranded costs created by early retirement of a fossil generation plant; and
- (4) The establishment of differentiated authorized rates of return on common equity to encourage increased utility investments in transmission and distribution infrastructure, discourage an electric utility investment in fossil fuel electric generation plants to incentivize grid modernization, and disincentivize fossil generation, respectively.

~~[(d)]~~ (e) The chairperson of the commission may appoint a hearings officer, who shall not be subject to chapter 76, to hear and recommend decisions in any proceeding before it other than a proceeding involving the rates or any other matters covered in the tariffs filed by the public utilities. The hearings officer shall have the power to take testimony, make findings of fact and conclusions of law, and recommend a decision; provided that the findings of fact, the conclusions of law, and the recommended decision shall be reviewed and may be approved by the commission after notice to the parties and an opportunity to be heard. The hearings officer shall have all of the above powers conferred upon the public utilities commission under section 269-10."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 22, 2013.)

ACT 38

H.B. NO. 1133

A Bill for an Act Relating to Public Land.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 55, Session Laws of Hawaii 2011, codified as chapter 171C, Hawaii Revised Statutes, created the public land development corporation. Section 171C-1, Hawaii Revised Statutes, states in pertinent part:

"The purpose of this chapter is to create a vehicle and process to make optimal use of public land for the economic, environmental, and social benefit of the people of Hawaii. This chapter establishes a public corporation to administer an appropriate and culturally-sensitive public land development program. The corporation shall coordinate and administer

programs to make optimal use of public land, while ensuring that the public land is maintained for the people of Hawaii.”

The legislature finds that Act 55 has engendered significant public concern and scrutiny due in part to the fact that projects undertaken pursuant to Act 55 are exempt from state and county laws regarding land use, zoning, and construction standards for subdivisions, development, and improvement of land. In addition, concerns have been raised regarding inadequate notice given to the public to testify on the exemption provisions. The exemptions, coupled with the manner in which Act 55 was passed, have led to distrust and uncertainty of the public land development corporation’s intentions and development plans. Despite efforts to allay concerns, many individuals and organizations, particularly environmental and native Hawaiian organizations, have expressed support for legislation to repeal Act 55.

The legislature further finds that the implementation of Act 55 falls short of “ensuring that the public land is maintained for the people of Hawaii.” The intent of the legislature is to ensure that the public lands of Hawaii are used and administered in an equitable and transparent manner that should not necessarily be relegated to administrative decision-making or rule-making on an ad hoc basis. While the optimization of the use of public lands is a meritorious goal with the potential to significantly benefit the people of Hawaii, achieving this goal requires a greater respect for existing laws and procedures and greater assurance that the public land development corporation is the vehicle that will produce economic, environmental, and social benefit for the people of Hawaii.

The legislature further finds that the county councils of Kauai and Maui have adopted resolutions urging the legislature to abolish the public land development corporation by repealing chapter 171C, Hawaii Revised Statutes. The Honolulu city council has considered a similar resolution, but has yet to adopt such a resolution.

The purpose of this Act is to repeal chapter 171C, Hawaii Revised Statutes, relating to the public land development corporation.

SECTION 2. Section 171-2, Hawaii Revised Statutes, is amended to read as follows:

“§171-2 Definition of public lands. “Public lands” means all lands or interest therein in the State classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; including lands accreted after May 20, 2003, and not otherwise awarded, submerged lands, and lands beneath tidal waters that are suitable for reclamation, together with reclaimed lands that have been given the status of public lands under this chapter, except:

- (1) Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended;
- (2) Lands set aside pursuant to law for the use of the United States;
- (3) Lands being used for roads and streets;
- (4) Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act prior to the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands in accordance with the state constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws;
- (5) Lands to which the University of Hawaii holds title;

- (6) Lands to which the Hawaii housing finance and development corporation in its corporate capacity holds title;
- (7) Lands to which the Hawaii community development authority in its corporate capacity holds title;
- (8) Lands to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned or to recover debts otherwise owed the department under chapter 167;
- (9) Lands that are set aside by the governor to the Aloha Tower development corporation; lands leased to the Aloha Tower development corporation by any department or agency of the State; or lands to which the Aloha Tower development corporation holds title in its corporate capacity;
- (10) Lands that are set aside by the governor to the agribusiness development corporation; lands leased to the agribusiness development corporation by any department or agency of the State; or lands to which the agribusiness development corporation in its corporate capacity holds title; and
- (11) Lands to which the high technology development corporation in its corporate capacity holds title; and
- (12) ~~Lands which are set aside by the governor to the public land development corporation; lands leased to the public land development corporation by any department or agency of the State; or lands to which the public land development corporation holds title in its corporate capacity].~~

SECTION 3. Section 171-64.7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This section applies to all lands or interest therein owned or under the control of state departments and agencies classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or any other manner, including accreted lands not otherwise awarded, submerged lands, and lands beneath tidal waters ~~[which]~~ that are suitable for reclamation, together with reclaimed lands ~~[which]~~ that have been given the status of public lands under this chapter, including:

- (1) Land set aside pursuant to law for the use of the United States;
- (2) Land to which the United States relinquished the absolute fee and ownership under section 91 of the Organic Act prior to the admission of Hawaii as a state of the United States;
- (3) Land to which the University of Hawaii holds title;
- (4) Land to which the Hawaii housing finance and development corporation in its corporate capacity holds title;
- (5) Land to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned or to recover debts otherwise owed the department under chapter 167;
- (6) Land that is set aside by the governor to the Aloha Tower development corporation; or land to which the Aloha Tower development corporation holds title in its corporate capacity;
- (7) Land that is set aside by the governor to the agribusiness development corporation; or land to which the agribusiness development corporation in its corporate capacity holds title; and

- (8) Land to which the high technology development corporation in its corporate capacity holds title; ~~and~~
- (9) ~~Land that is set aside by the governor to the public land development corporation or land to which the public land development corporation holds title in its corporate capacity].~~

SECTION 4. Section 173A-4, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) The board [shall], in consultation with the senate president and the speaker of the house of representatives, shall require as a condition of the receipt of funds that state and county agencies receiving funds under this chapter provide a conservation easement under chapter 198, or an agricultural easement or deed restriction or covenant to the department of land and natural resources; the department of agriculture; the agribusiness development corporation; ~~[the public land development corporation];~~ an appropriate land conservation organization; or a county, state, or federal natural resource conservation agency, that shall run with the land and be recorded with the land to ensure the long-term protection of land having value as a resource to the State and preserve the interests of the State. The board shall require as a condition of the receipt of funds that it be an owner of ~~[any such]~~ a conservation easement.

(d) The board [shall], in consultation with the senate president and the speaker of the house of representatives, shall require as a condition of the receipt of funds that nonprofit land conservation organizations receiving funds under this chapter provide a conservation easement under chapter 198, or an agricultural easement or deed restriction or covenant to the department of land and natural resources; the department of agriculture; the agribusiness development corporation; ~~[the public land development corporation];~~ an appropriate land conservation agency; or an appropriate county, state, or federal natural resource conservation agency, that shall run with the land and be recorded with the land to ensure the long-term protection of land having value as a resource to the State and preserve the interests of the State. The board shall require as a condition of the receipt of funds that it be an owner of ~~[any such]~~ a conservation easement."

SECTION 5. Section 173A-5, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

"(i) Based on applications from state agencies, counties, and nonprofit land conservation organizations, the department, in consultation with the senate president and speaker of the house of representatives, shall recommend to the board specific parcels of land to be acquired, restricted with conservation easements, or preserved in similar fashion. The board shall review the selections and approve or reject the selections according to the availability of moneys in the fund. To be eligible for grants from the fund, state and county agencies and nonprofit land conservation organizations shall submit applications to the department that contain:

- (1) Contact information for the project;
- (2) A description of the project;
- (3) The request for funding;
- (4) Cost estimates for acquisition of the interest in the land;
- (5) Location and characteristics of the land;
- (6) The project's public benefits, including but not limited to where public access may be practicable or not practicable and why;
- (7) Results of the applicant's consultation with the staff of the department, the department of agriculture, and the agribusiness develop-

- ment corporation[, and the public land development corporation] regarding the maximization of public benefits of the project, where practicable; and
- (8) Other similar, related, or relevant information as determined by the department.”

SECTION 6. Section 206E-4, Hawaii Revised Statutes, is amended to read as follows:

“§206E-4 Powers; generally. Except as otherwise limited by this chapter, the authority may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (4) Make and alter bylaws for its organization and internal management;
- (5) Make rules with respect to its projects, operations, properties, and facilities, which rules shall be in conformance with chapter 91;
- (6) Through its executive director appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapter 76;
- (7) Prepare or cause to be prepared a community development plan for all designated community development districts;
- (8) Acquire, reacquire, or contract to acquire or reacquire by grant or purchase real, personal, or mixed property or any interest therein; to own, hold, clear, improve, and rehabilitate, and to sell, assign, exchange, transfer, convey, lease, or otherwise dispose of or encumber the same;
- (9) Acquire or reacquire by condemnation real, personal, or mixed property or any interest therein for public facilities, including but not limited to streets, sidewalks, parks, schools, and other public improvements;
- (10) By itself, or in partnership with qualified persons, acquire, reacquire, construct, reconstruct, rehabilitate, improve, alter, or repair or provide for the construction, reconstruction, improvement, alteration, or repair of any project; own, hold, sell, assign, transfer, convey, exchange, lease, or otherwise dispose of or encumber any project, and in the case of the sale of any project, accept a purchase money mortgage in connection therewith; and repurchase or otherwise acquire any project ~~[which]~~ that the authority has theretofore sold or otherwise conveyed, transferred, or disposed of;
- (11) Arrange or contract for the planning, replanning, opening, grading, or closing of streets, roads, roadways, alleys, or other places, or for the furnishing of facilities or for the acquisition of property or property rights or for the furnishing of property or services in connection with a project;
- (12) Grant options to purchase any project or to renew any lease entered into by it in connection with any of its projects, on ~~[such]~~ terms and conditions as it deems advisable;
- (13) Prepare or cause to be prepared plans, specifications, designs, and estimates of costs for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project, and from

time to time to modify [such] the plans, specifications, designs, or estimates;

- (14) Provide advisory, consultative, training, and educational services, technical assistance, and advice to any person, partnership, or corporation, either public or private, to carry out the purposes of this chapter, and engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
- (15) Procure insurance against any loss in connection with its property and other assets and operations in [such] amounts and from [such] insurers as it deems desirable;
- (16) Contract for and accept gifts or grants in any form from any public agency or from any other source;
- (17) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter; and
- (18) Allow satisfaction of any affordable housing requirements imposed by the authority upon any proposed development project through the construction of reserved housing, as defined in section 206E-101, by a person on land located outside the geographic boundaries of the authority's jurisdiction; provided that the authority shall not permit any person to make cash payments in lieu of providing reserved housing, except to account for any fractional unit that results after calculating the percentage requirement against residential floor space or total number of units developed. The substituted housing shall be located on the same island as the development project and shall be substantially equal in value to the required reserved housing units that were to be developed on site. The authority shall establish the following priority in the development of reserved housing:
 - (A) Within the community development district;
 - (B) Within areas immediately surrounding the community development district;
 - (C) Areas within the central urban core;
 - (D) In outlying areas within the same island as the development project.

The Hawaii community development authority shall adopt rules relating to the approval of reserved housing that are developed outside of a community development district. The rules shall include, but are not limited to, the establishment of guidelines to ensure compliance with the above priorities; and

- (19) ~~Assist the public land development corporation established by section 171C-3 in identifying public lands that may be suitable for development, carrying on marketing analysis to determine the best revenue generating programs for the public lands identified, entering into public-private agreements to appropriately develop the public lands identified, and providing the leadership for the development, financing, improvement, or enhancement of the selected development opportunities; provided that no assistance shall be provided unless the authority authorizes the assistance]."~~

SECTION 7. Chapter 171C, Hawaii Revised Statutes, is repealed.

SECTION 8. Act 117, Session Laws of Hawaii 2012, is amended by amending section 2 to read as follows:

"SECTION 2. The department of public safety, in cooperation with Ohana Ho'opakele and other restorative justice groups, is directed to prepare a plan for the creation of a pu'uhonua, or wellness center, on lands owned or controlled by the State. ~~[The public land development corporation shall assist in determining an appropriate site for the center; provided that the site formerly used as the Kulani correctional facility on the island of Hawaii shall be given preference, unless another site will provide a greater possibility of success.]~~

The department of public safety shall submit a report to the legislature on its plan, findings, and recommendations, including the factors used in determining site selection, and any budget requests necessary to achieve the purposes of this Act, no later than twenty days prior to the convening of the regular session of 2013."

SECTION 9. (a) Any funds appropriated to the department of land and natural resources pursuant to Act 55, Session Laws of Hawaii 2011, that are unexpended and unencumbered as of the effective date of this Act shall be deposited into the land conservation fund established pursuant to section 173A-5, Hawaii Revised Statutes, on the effective date of this Act.

(b) Any proceeds generated and deposited into the stadium facilities special fund pursuant to Act 282, Session Laws of Hawaii 2012, that are unexpended and unencumbered as of the effective date of this Act shall be deposited into the general fund on the effective date of this Act.

(c) Any proceeds generated and deposited into the school facilities special fund pursuant to Act 309, Session Laws of Hawaii 2012, that are unexpended and unencumbered as of the effective date of this Act shall be deposited into the general fund on the effective date of this Act.

(d) All records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal and real property heretofore made, used, acquired, or held by the public land development corporation shall be transferred to the department of land and natural resources.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved April 22, 2013.)

ACT 39

S.B. NO. 1102

A Bill for an Act Making an Emergency Appropriation to the Department of Human Services From the Hospital Sustainability Program Special Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. Hospitals in the State face major financial challenges in providing quality health care for Hawaii residents, due in part to the care provided to medicaid enrollees. Payments for these clients do not cover the actual costs of care. To address this challenge, the hospital sustainability program special fund was established by Act 217, Session Laws of Hawaii 2012. Use of revenue

ACT 40

from the hospital sustainability program special fund includes increasing medicaid payments to private hospitals. In order to avoid any delay in payment to the hospitals for fiscal year 2012-2013, advancement of moneys from the health care payments program (HMS 401) for those payments to hospitals will be made until payments can be made from the special fund.

This emergency appropriation will ensure continued timely payments to the hospitals and will ensure that there will be no disruption in the provision of medically necessary services to program recipients.

SECTION 3. There is appropriated out of the hospital sustainability program special fund the sum of \$43,000,000, or so much thereof as may be necessary, for fiscal year 2012-2013, with such moneys to be used consistent with the hospital sustainability program special fund, including the reimbursement of moneys advanced in fiscal year 2012-2013 from the health care payments program (HMS 401).

SECTION 4. The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 23, 2013.)

ACT 40

S.B. NO. 1112

A Bill for an Act Relating to Deleting State Public Housing Delinquent Accounts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 356D, Hawaii Revised Statutes, is amended by adding to part III a new section to be appropriately designated and to read as follows:

“§356D- Delinquent accounts. (a) Notwithstanding section 40-82, the authority, with the approval of the attorney general, may delete from its account receivable records delinquent accounts for vacated units within state low-income public housing projects that have been delinquent for at least 90 days.

(b) The delinquent accounts may be assigned to a collection agency.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 23, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 41

S.B. NO. 540

A Bill for an Act Relating to Veterans.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 307, Session Laws of Hawaii 2012, is amended by amending section 4 to read as follows:

~~“SECTION 4. This Act shall take effect upon its approval; provided that on June 30, 2015, this Act shall be repealed and section 363-5, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act].”~~

SECTION 2. Statutory material to be repealed is bracketed and stricken.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 23, 2013.)

ACT 42

H.B. NO. 998

A Bill for an Act Relating to Private Transfer Fees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Act 169, Session Laws of Hawaii 2010, temporarily prohibited the inclusion in a deed of a restriction or other covenant running with the land that requires a transferee of real property to pay a fee in connection with a future transfer of the property.

Prior to Act 169, there was no regulation over the imposition of private transfer fees, no limitation on the application of the fees, and no accountability or oversight of the recipients of the fees. To date, a total of thirty-six states have either banned or placed conditions on this practice.

The legislature further finds that at the federal level, the Federal Housing Finance Agency has implemented final rules limiting the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Federal Home Loan Banks from dealing in mortgages on properties encumbered by certain types of private transfer fee covenants and in certain related securities. Similar to Act 169, the Federal Housing Finance Agency final rule excludes private transfer fees paid to homeowner associations, condominiums, cooperatives, and certain tax-exempt organizations that use private transfer fee proceeds to benefit the property.

The purpose of this Act is to permanently prohibit private transfer fees by eliminating the sunset date of Act 169.

SECTION 2. Act 169, Session Laws of Hawaii 2010, is amended by amending section 5 to read as follows:

~~“SECTION 5. This Act shall take effect upon its approval, and shall be repealed on June 30, 2015].”~~

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act shall take effect upon its approval.
(Approved April 23, 2013.)

ACT 43

S.B. NO. 1184

A Bill for an Act Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to conform Hawaii income tax law to the Internal Revenue Code. On January 2, 2013, Public Law 112-240, also known as the American Taxpayer Relief Act of 2012, was enacted by the federal government. Public Law 112-240 included many provisions that extended tax features that expired or were set to expire. By adopting the Internal Revenue Code, as amended as of January 2, 2013, instead of December 31, 2012, Hawaii income tax law will conform more closely to the Internal Revenue Code as the stated legislative intent in section 235-3, Hawaii Revised Statutes, suggests.

SECTION 2. Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) For all taxable years beginning after December 31, ~~[2011,]~~ 2012, as used in this chapter, except as provided in section 235-2.35, “Internal Revenue Code” means subtitle A, chapter 1, of the federal Internal Revenue Code of 1986, as amended as of ~~[December 31, 2011,]~~ January 2, 2013, as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income, except those provisions of the Internal Revenue Code and federal public laws which, pursuant to this chapter, do not apply or are otherwise limited in application and except for the provisions of Public Law 109-001 which apply to section 170 of the Internal Revenue Code. The provisions of Public Law 109-001 to accelerate the deduction for charitable cash contributions for the relief of victims of the 2004 Indian Ocean tsunami are applicable for the calendar year that ended December 31, 2004, and the calendar year ending December 31, 2005.

Sections 235-2, 235-2.1, and 235-2.2 shall continue to be used to determine:

- (1) The basis of property, if a taxpayer first determined the basis of property in a taxable year to which such sections apply, and if such determination was made before January 1, 1978; and
- (2) Gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which such sections apply where such taxable year begins before January 1, 1978.”

SECTION 3. Section 235-2.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The department of taxation shall submit to each regular session of the legislature a bill to amend sections 235-2.3, 235-2.4, and 235-2.45 and such other sections and subsections of this chapter as may be necessary to adopt the Internal Revenue Code as it exists on ~~[the December 31 preceding such regular session.]~~ January 2, 2013. In submitting the bill the department may provide that certain amendments to the Internal Revenue Code by Congress during the preceding calendar year shall not be operative in this State or as operative are

limited in their operation. The department shall also prepare a digest and explanation of the amended provisions of the Internal Revenue Code recommended for operation, as well as those provisions which are limited in their operation, or which are not recommended for operation, and shall submit with the bill required by this subsection the digest, explanation, and a statement of revenue impact of the adoption of such bill. In preparing the bill, digest, and explanation the department may request the assistance of the office of the legislative reference bureau.

It is the intent of the legislature that it shall each year adopt all amendments to the Internal Revenue Code for the calendar year preceding the year in which the legislature meets; provided that the legislature may choose to adopt none of the amendments to the Internal Revenue Code or may provide that certain amendments are limited in their operation."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2012.

(Approved April 23, 2013.)

ACT 44

S.B. NO. 1192

A Bill for an Act Relating to Collection of Taxes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 231-25, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The following rules are applicable to the levy as provided for in subsection (a)(2):

- (1) Seizure and sale of property. The term "levy" as used in this section includes the power of distraint and seizure by any means. Except as provided in paragraph (2), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the director or the director's representative may levy upon property or rights to property, the director may seize and sell the property or rights to property (whether real or personal, tangible or intangible);
- (2) The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date the levy is first made until the levy is released. The levy on salary or wages shall attach to twenty-five per cent of any salary or wages payable or received by the taxpayer;
- (3) Successive seizures. Whenever any property or rights to property upon which levy has been made is not sufficient to satisfy the claim of the State for which levy is made, the director or the director's representative, thereafter, and as often as may be necessary, may proceed to levy in like manner upon any other property liable to levy of the person against whom a claim exists, until the amount due from the person, together with all expenses, is fully paid;
- (4) Surrender of property subject to levy.

- (A) Requirement. Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made, upon demand of the director or the director's representative, shall surrender the property or rights (or discharge the obligation) to the director or the director's representative, except that part of the property or rights as is, at the time of the demand, subject to an attachment or execution under any judicial process;
- (B) Extent of personal liability. Any person who fails or refuses to surrender property or rights to property, subject to levy, upon demand by the director or the director's representative, shall be liable in the person's own person and estate to the State in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which the levy has been made, together with costs and interest on the sum at the rate of eight per cent a year from the date of the levy. Any amount (other than costs) recovered under this subparagraph shall be credited against the tax liability for the collection of which the levy was made;
- (C) Penalty for violation. In addition to the personal liability imposed by subparagraph (B), if any person required to surrender property or rights to property fails or refuses to surrender the property or rights to property without reasonable cause, the person shall be liable for a penalty equal to fifty per cent of the amount recoverable under subparagraph (B). No part of the penalty shall be credited against the tax liability for the collection of which the levy was made;
- (D) Effect of honoring levy. Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made who, upon demand by the director or the director's representative, surrenders the property or rights to property (or discharges the obligation) to the director or the director's representative (or who pays a liability under subparagraph (B)) shall be discharged from any obligation or liability to the delinquent taxpayer and any other person with respect to the property or rights to property arising from the surrender or payment; and
- (E) Person defined. The term "person", as used in subparagraph (A), includes an officer or employee of a corporation or a member or employee of a partnership, who as an officer, employee, or member is under a duty to surrender the property or rights to property, or to discharge the obligation;
- (5) Production of books. If a levy has been made or is about to be made on any property, or rights to property, any person having custody or control of books or records, containing evidence or statements relating to the property or rights to property subject to levy, upon demand of the director or the director's representative, shall exhibit those books or records to the director or the director's representative;
- (6) Property exempt from levy. Notwithstanding any other law of the State, no property or rights to property shall be exempt from levy other than the following:

- (A) Wearing apparel and school books. Those items of wearing apparel and those school books that are necessary for the taxpayer or for members of the taxpayer's family;
 - (B) Fuel, provisions, furniture, and personal effects. If the taxpayer is the head of a family, so much of the fuel, provisions, furniture, and personal effects in the taxpayer's household, and of the arms for personal use, livestock, and poultry of the taxpayer, as does not exceed \$500 in value;
 - (C) Books and tools of a trade, business, or profession. So many of the books and tools necessary for the trade, business, or profession of the taxpayer as do not exceed in the aggregate \$250 in value;
 - (D) Unemployment benefits. Any amount payable to an individual with respect to the individual's unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States or the State; and
 - (E) Undelivered mail. Mail, addressed to any person, which has not been delivered to the addressee; and
- (7) Sale of the seized property.
- (A) Notice of sale. The director shall take possession and keep the levied property until the sale. After taking possession, the director shall sell the taxpayer's interest in the property at public auction after first giving fifteen days public notice of the time and place of the sale in the district, and by posting the notice in at least three public places in the district where the sale is to be held;
 - (B) Assistance in seizure and sale. The director may require the assistance of any sheriff or authorized police officer of any county to aid in the seizure and sale of the levied property. The director may further retain the services of any person competent and qualified to aid in the sale of the levied property, provided that the consent of the delinquent taxpayer is obtained. Any sheriff or the person so retained by the director shall be paid a fair and reasonable fee but in no case shall the fee exceed ten per cent of the gross proceeds of the sale. Any person other than a sheriff so retained by the director to assist the director may be required to furnish bond in an amount to be determined by the director. The fees and the cost of the bond shall constitute a part of the costs and expenses of the levy;
 - (C) Time and place of sale. The sale shall take place and be completed within ~~[thirty]~~ one hundred eighty days after seizure; provided that ~~[by public announcement at the sale, or at the time and place previously set for the sale, it may be extended for one week. Any further extension of the sale shall be with the consent of the delinquent taxpayer. The sale, in any event, shall be completed within forty five days after seizure of the property;]~~ the time period set herein shall be tolled during the pendency of any action commenced by any person relating to the seized property until a final order is rendered in that action, whether by stipulation with the person or by court order, or upon the expiration of any extended time as may be agreed upon;

- (D) Manner and conditions of sale. Sufficient property shall be sold to pay all taxes, penalties, interest, costs, and expenses. On payment of the price bid for any property sold, the delivery thereof with a bill of sale from the director shall vest the title of the property in the purchaser. No charge shall be made for the bill of sale. All surplus received upon any sale after the payment of the taxes, penalties, interest, costs, and expenses, shall be returned to the owner of the property sold, and until claimed shall be deposited with the department subject to the order of the owner. Any unsold portion of the property seized may be left at the place of sale at the risk of the owner; and
- (E) Redemption of property. If the owner of the property seized desires to retain or regain possession thereof, the owner may give a sufficient bond with surety to produce the property at the time and place of sale, or pay all taxes, penalties, interest, costs, and expenses."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 23, 2013.)

ACT 45

S.B. NO. 1203

A Bill for an Act Relating to Conformity of the Hawaii Estate and Generation-Skipping Transfer Tax Law to the Internal Revenue Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to conform the Hawaii estate and generation-skipping transfer tax law to the Internal Revenue Code. On January 2, 2013, Public Law 112-240, also known as the American Taxpayer Relief Act of 2012, was enacted by the federal government. Public Law 112-240 included many provisions that extended tax features that expired or were set to expire. By adopting the Internal Revenue Code as amended as of January 2, 2013, instead of December 31, 2012, Hawaii estate and generation-skipping transfer tax law will conform more closely to the Internal Revenue Code as the stated legislative intent in section 236E-5, Hawaii Revised Statutes, suggests.

SECTION 2. Section 236E-3, Hawaii Revised Statutes, is amended to read as follows:

"[§236E-3] Conformance to the Internal Revenue Code; general application. For all decedents dying after January 25, 2012, as used in this chapter, "Internal Revenue Code" means subtitle B of the federal Internal Revenue Code of 1986, as amended as of ~~[December 31, 2011,]~~ January 2, 2013, as it applies to the determination of gross estate, adjusted gross estate, federal taxable estate, and generation-skipping transfers, except those provisions of the Internal Revenue Code and federal public laws that, pursuant to this chapter, do not apply or are otherwise limited in application."

SECTION 3. Section 236E-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The department shall submit to the legislature, no later than twenty days prior to the convening of each regular session, proposed legislation to amend section 236E-3 and any other sections and subsections of this chapter as may be necessary to adopt the Internal Revenue Code as it exists on ~~[the December 31 preceding the regular session.] January 2, 2013.~~ In submitting the proposed legislation, the department may provide that certain amendments made to the Internal Revenue Code by Congress during the preceding calendar year shall not be operative in this State or shall be limited in their operation. The department shall also prepare a digest and explanation of the amended provisions of the Internal Revenue Code recommended for operation, as well as those provisions that are recommended to be limited in their operation, or that are not recommended for operation, and shall submit with the proposed legislation required by this subsection the digest, explanation, and a statement of revenue impact of the adoption of the proposed legislation. In preparing the proposed legislation, digest, and explanation, the department may request the assistance of the legislative reference bureau.

It is the intent of the legislature to adopt all amendments made to the Internal Revenue Code during the calendar year preceding each regular session; provided that the legislature may choose to adopt none of the amendments to the Internal Revenue Code or may provide that certain amendments are limited in their operation.

All provisions of the Internal Revenue Code referred to in this chapter that apply to a husband and wife, spouses, or persons in a legal marital relationship shall be deemed to apply in this chapter to partners in a civil union with the same force and effect as if they were “husband and wife”, “spouses”, or other terms that describe persons in a legal marital relationship.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 23, 2013.)

ACT 46

S.B. NO. 1190

A Bill for an Act Relating to the Imposition of Use Tax on Imported Contracting.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 238-1, Hawaii Revised Statutes, is amended by amending the definition of “use” to read as follows:

““Use” (and any nounal, verbal, adjectival, and other equivalent form of the term) herein used interchangeably means any use, whether the use is of such nature as to cause the property, services, or contracting to be appreciably consumed or not, or the keeping of the property or services for such use or for sale, the exercise of any right or power over tangible or intangible personal property incident to the ownership of that property, and shall include control over tangible or intangible property by a seller who is licensed or who should be licensed under chapter 237, who directs the importation of the property into the State for sale and delivery to a purchaser in the State, liability and

free on board (FOB) to the contrary notwithstanding, regardless of where title passes, but the term "use" shall not include:

- (1) Temporary use of property, not of a perishable or quickly consumable nature, where the property is imported into the State for temporary use (not sale) therein by the person importing the same and is not intended to be, and is not, kept permanently in the State. For example, without limiting the generality of the foregoing language:
 - (A) In the case of a contractor importing permanent equipment for the performance of a construction contract, with intent to remove, and who does remove, the equipment out of the State upon completing the contract;
 - (B) In the case of moving picture films imported for use in theaters in the State with intent or under contract to transport the same out of the State after completion of such use; and
 - (C) In the case of a transient visitor importing an automobile or other belongings into the State to be used by the transient visitor while therein but which are to be used and are removed upon the transient visitor's departure from the State;
- (2) Use by the taxpayer of property acquired by the taxpayer solely by way of gift;
- (3) Use which is limited to the receipt of articles and the return thereof, to the person from whom acquired, immediately or within a reasonable time either after temporary trial or without trial;
- (4) Use of goods imported into the State by the owner of a vessel or vessels engaged in interstate or foreign commerce and held for and used only as ship stores for the vessels;
- (5) The use or keeping for use of household goods, personal effects, and private automobiles imported into the State for nonbusiness use by a person who:
 - (A) Acquired them in another state, territory, district, or country;
 - (B) At the time of the acquisition was a bona fide resident of another state, territory, district, or country;
 - (C) Acquired the property for use outside the State; and
 - (D) Made actual and substantial use thereof outside this State;
 provided that as to an article acquired less than three months prior to the time of its importation into the State it shall be presumed, until and unless clearly proved to the contrary, that it was acquired for use in the State and that its use outside the State was not actual and substantial;
- (6) The leasing or renting of any aircraft or the keeping of any aircraft solely for leasing or renting to lessees or renters using the aircraft for commercial transportation of passengers and goods or the acquisition or importation of any such aircraft or aircraft engines by any lessee or renter engaged in interstate air transportation. For purposes of this paragraph, "leasing" includes all forms of lease, regardless of whether the lease is an operating lease or financing lease. The definition of "interstate air transportation" is the same as in 49 U.S.C. 40102;
- (7) The use of oceangoing vehicles for passenger or passenger and goods transportation from one point to another within the State as a public utility as defined in chapter 269;
- (8) The use of material, parts, or tools imported or purchased by a person licensed under chapter 237 which are used for aircraft service

- and maintenance, or the construction of an aircraft service and maintenance facility as those terms are defined in section 237-24.9;
- (9) The use of services or contracting imported for resale where the contracting or services are for resale, consumption, or use outside the State pursuant to section 237-29.53(a);
- ~~[(10) The use of contracting imported or purchased by a contractor as defined in section 237-6 who is:~~
- ~~(A) Licensed under chapter 237;~~
- ~~(B) Engaged in business as a contractor; and~~
- ~~(C) Subject to the tax imposed under section 238-2.3;] and~~
- [(11)] (10) The use of property, services, or contracting imported by foreign diplomats and consular officials who are holding cards issued or authorized by the United States Department of State granting them an exemption from state taxes.

With regard to purchases made and distributed under the authority of chapter 421, a cooperative association shall be deemed the user thereof."

SECTION 2. Section 238-2.3, Hawaii Revised Statutes, is amended to read as follows:

"§238-2.3 Imposition of tax on imported services or contracting; exemptions. There is hereby levied an excise tax on the value of services or contracting as defined in section 237-6 that are performed by an unlicensed seller at a point outside the State and imported or purchased for use in this State. The tax imposed by this chapter shall accrue when the service or contracting as defined in section 237-6 is received by the importer or purchaser and becomes subject to the taxing jurisdiction of the State. The rates of the tax hereby imposed and the exemptions from the tax are as follows:

- (1) If the importer or purchaser is licensed under chapter 237 and is:
 - (A) Engaged in a service business or calling in which the imported or purchased services or contracting become identifiable elements, excluding overhead, of the services rendered by the importer or purchaser, and the gross income of the importer or purchaser is subject to the tax imposed under chapter 237 on services at the rate of one-half of one per cent or the rate of tax imposed under section 237-13.3; [or]
 - (B) A manufacturer importing or purchasing services or contracting that become identifiable elements, excluding overhead, of a finished or saleable product (including the container or package in which the product is contained) and the finished or saleable product is to be sold in a manner that results in a further tax on the manufacturer as a wholesaler, and not a retailer; or
 - (C) A contractor importing or purchasing contracting that become identifiable elements, excluding overhead, of the finished work or project required under the contract; provided that:
 - (i) The gross proceeds derived by the contractor are subject to the tax under section 237-13(3) as a contractor; and
 - (ii) The contractor could have deducted amounts paid to the subcontractor under section 237-13(3)(B) if the subcontractor was subject to general excise tax under chapter 237;

there shall be no tax imposed on the value of the imported or purchased services or contracting; provided that if the manufacturer is also engaged in business as a retailer as classified under chapter 237,

paragraph (2) shall apply to the manufacturer, but the director of taxation shall refund to the manufacturer, in the manner provided under section 231-23(c), that amount of tax that the manufacturer, to the satisfaction of the director, shall establish to have been paid by the manufacturer to the director with respect to services that have been used by the manufacturer for the purposes stated in this paragraph.

- (2) If the importer or purchaser is a person licensed under chapter 237 and is:
 - (A) Engaged in a service business or calling in which the imported or purchased services or contracting become identifiable elements, excluding overhead, of the services rendered by the importer or purchaser, and the gross income from those services when sold by the importer or purchaser is subject to the tax imposed under chapter 237 at the highest rate;
 - (B) A manufacturer importing or purchasing services or contracting that become identifiable elements, excluding overhead, of the finished or saleable manufactured product (including the container or package in which the product is contained) and the finished or saleable product is to be sold in a manner that results in a further tax under chapter 237 on the activity of the manufacturer as a retailer; or
 - (C) A contractor importing or purchasing services [~~or contracting~~] that become identifiable elements, excluding overhead, of the finished work or project required, under the contract, and where the gross proceeds derived by the contractor are subject to the tax under section 237-13(3) as a contractor, the tax shall be one-half of one per cent of the value of the imported or purchased services or contracting; and
- (3) In all other cases, the importer or purchaser is subject to the tax at the rate of four per cent on the value of the imported or purchased services or contracting."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2013.

(Approved April 23, 2013.)

ACT 47

S.B. NO. 423

A Bill for an Act Relating to in Vitro Fertilization Insurance Coverage.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431:10A-116.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All individual and group accident and health or sickness insurance policies which provide pregnancy-related benefits shall include in addition to any other benefits for treating infertility, a one-time only benefit for all outpatient expenses arising from in vitro fertilization procedures performed on the insured or the insured's dependent spouse; provided that:

- (1) Benefits under this section shall be provided to the same extent as the benefits provided for other pregnancy-related benefits;
- (2) The patient is the insured or covered dependent of the insured;
- (3) The patient's oocytes are fertilized with the patient's spouse's sperm;
- (4) The:
 - (A) Patient and the patient's spouse have a history of infertility of at least five years' duration; or
 - (B) Infertility is associated with one or more of the following medical conditions:
 - (i) Endometriosis;
 - (ii) Exposure in utero to diethylstilbestrol, commonly known as DES;
 - (iii) Blockage of, or surgical removal of, one or both fallopian tubes (lateral or bilateral salpingectomy); or
 - (iv) Abnormal male factors contributing to the infertility;
- (5) The patient has been unable to attain a successful pregnancy through other applicable infertility treatments for which coverage is available under the insurance contract; and
- (6) The in vitro fertilization procedures are performed at medical facilities that conform to the American College of ~~[Obstetric and Gynecology]~~ Obstetricians and Gynecologists guidelines for in vitro fertilization clinics or to the American Society for Reproductive Medicine minimal standards for programs of in vitro fertilization."

SECTION 2. Section 432:1-604, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) All individual and group hospital or medical service plan contracts which provide pregnancy-related benefits shall include in addition to any other benefits for treating infertility, a one-time only benefit for all outpatient expenses arising from in vitro fertilization procedures performed on the subscriber or member or the subscriber's or member's dependent spouse; provided that:

- (1) Benefits under this section shall be provided to the same extent as the benefits provided for other pregnancy-related benefits;
- (2) The patient is a subscriber or member or covered dependent of the subscriber or member;
- (3) The patient's oocytes are fertilized with the patient's spouse's sperm;
- (4) The:
 - (A) Patient and the patient's spouse have a history of infertility of at least five years' duration; or
 - (B) Infertility is associated with one or more of the following medical conditions:
 - (i) Endometriosis;
 - (ii) Exposure in utero to diethylstilbestrol, commonly known as DES;
 - (iii) Blockage of, or surgical removal of, one or both fallopian tubes (lateral or bilateral salpingectomy); or
 - (iv) Abnormal male factors contributing to the infertility;
- (5) The patient has been unable to attain a successful pregnancy through other applicable infertility treatments for which coverage is available under the contract; and
- (6) The in vitro fertilization procedures are performed at medical facilities that conform to the American College of ~~[Obstetric and Gynecology]~~ Obstetricians and Gynecologists guidelines for in vi-

tro fertilization clinics or to the American Society for Reproductive Medicine minimal standards for programs of in vitro fertilization.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 23, 2013.)

ACT 48

H.B. NO. 944

A Bill for an Act Relating to the Uniform Controlled Substances Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 329-14, Hawaii Revised Statutes, is amended by amending subsections (f) and (g) to read as follows:

“(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

- (1) Aminorex;
- (2) Cathinone;
- (3) Fenethylamine;
- (4) Methcathinone;
- (5) N-ethylamphetamine;
- (6) 4-methylaminorex;
- (7) N,N-dimethylamphetamine; and
- (8) Substituted cathinones, any compound, except bupropion or compounds listed under a different schedule, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:
 - (A) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
 - (B) By substitution at the 3-position with an acyclic alkyl substituent; or
 - (C) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

Some other trade names: Mephedrone (2-methylamino-1-p-tolylpropan-1-one), also known as 4-methylmethcathinone (4-MMC), methylephedrone or MMCAT; Methylenedioxypyrovalerone (MDPV, MDPK); and methylone or ~~[3,4-methylenedioxypyrovalerone.] 3,4-methylenedioxymethcathinone.~~

(g) Any of the following cannabinoids, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Tetrahydrocannabinols; meaning tetrahydrocannabinols naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or

- in the resinous extractives of *Cannabis*, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers; Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and Delta 3,4 cis or trans-tetrahydrocannabinol, and its optical isomers (since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are covered);
- (2) Naphthoylindoles; meaning any compound containing a 3-(1-naphthoyl) indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent;
 - (3) Naphthylmethylindoles; meaning any compound containing a 1H-indol-3-yl-(1-naphthyl) methane structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent;
 - (4) Naphthoylpyrroles; meaning any compound containing a 3-(1-naphthoyl) pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent;
 - (5) Naphthylmethylindenenes; meaning any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent;
 - (6) Phenylacetylindoles; meaning any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent;
 - (7) Cyclohexylphenols; meaning any compound containing a 2-(3-hydroxycyclohexyl) phenol structure with substitution at the 5-position of the phenolic ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not substituted in the cyclohexyl ring to any extent;
 - (8) Benzoylindoles; meaning any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring by a alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,

- 1-(N-methyl-2-piperidinyl) methyl or 2-(4-morpholinyl) ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent;
- (9) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone (another trade name is WIN 55,212-2); ~~and~~
- (10) (6a,10a)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (other trade names are: HU-210 and HU-211)[-]; and
- (11) Tetramethylcyclopropanoylindoles; meaning any compound containing a 3-tetramethylcyclopropanoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent."

SECTION 2. Section 329-16, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) Immediate precursor. Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

- (1) Immediate precursor to amphetamine and methamphetamine:
 - (A) Phenylacetone, phenyl-2-propanone(P2P), benzyl methyl ketone, methyl benzyl ketone;
- (2) Immediate precursors to phencyclidine (PCP):
 - (A) 1-phenylcyclohexylamine; and
 - (B) 1-piperidinocyclohexanecarbonitrile(PCC); or
- (3) Immediate precursor to Fentanyl:
 - (A) ~~[4-anilino-N-phenethyl-4-piperidine (ANPP)]~~ 4-anilino-N-phenethyl-4-piperidine (ANPP)."

SECTION 3. Section 329-18, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) Any anabolic steroid. The term "anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

- (1) Boldenone;
- (2) Clostebol (4-Chlorotestosterone);
- (3) Dehydrochlormethyltestosterone;
- (4) Dihydrotestosterone (4-dihydrotestosterone);
- (5) Drostanolone;
- (6) Ethylestrenol;
- (7) Fluoxymesterone;
- (8) Formebolone (Formyldienolone);
- (9) Mesterolone;
- (10) Methandranone;
- (11) Methandriol;
- (12) Methandrostenolone (Methandienone);
- (13) Methenolone;
- (14) Methyltestosterone;

- (15) Mibolerone;
- (16) Nandrolone;
- (17) Norethandrolone;
- (18) Oxandrolone;
- (19) Oxymesterone;
- (20) Oxymetholone;
- (21) Stanolone (Dihydrotestosterone);
- (22) Stanozolol;
- (23) Testolactone;
- (24) Testosterone;
- (25) Trenbolone;
- (26) 3[beta], 17-dihydroxy-5a-androstane;
- (27) 3[alpha], 17[beta]-dihydroxy-5a-androstane;
- (28) 5[alpha]-androstan-3, 17-dione;
- (29) 1-androstenediol (3[beta],
17[beta]-dihydroxy-5[alpha]-androst-1-ene);
- (30) 1-androstenediol (3[alpha],
17[beta]-dihydroxy-5[alpha]-androst-1-ene);
- (31) 4-androstenediol (3[beta], 17[beta]-dihydroxy-androst-4-ene);
- (32) 5-androstenediol (3[beta], 17[beta]-dihydroxy-androst-5-ene);
- (33) 1-androstenedione ([5[alpha]]-androst-1-en-3, 17-dione);
- (34) 4-androstenedione (androst-4-en-3, 17-dione);
- (35) 5-androstenedione (androst-5-en-3, 17-dione);
- (36) Bolasterone (7[alpha],
17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);
- (37) Calusterone (7[beta],
17[alpha]-dimethyl-17[beta]-hydroxyandrost-4-en-3-one);
- (38) [Delta]1-dihydrotestosterone (a.k.a. '1-testosterone')
(17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);
- (39) Furazabol (17[alpha]-methyl-17[beta]-hydroxyandrostan-2,3-c]-
furazan);
- (40) 13[beta]-ethyl-17[beta]-hydroxygon-4-en-3-one;
- (41) 4-hydroxytestosterone (4,17[beta]-dihydroxy-androst-4-en-3-one);
- (42) 4-hydroxy-19-nortestosterone
(4,17[beta]-dihydroxy-estr-4-en-3-one);
- (43) Mesterolone (1[alpha]-methyl-17[beta]-hydroxy-[5[alpha]]-
androstan-3-one);
- (44) Methandienone
(17[alpha]-methyl-17[beta]-hydroxyandrost-1,4-dien-3-one);
- (45) Methandriol (17[alpha]-methyl-3[beta],
17[beta]-dihydroxyandrost-5-ene);
- (46) Methenolone
(1-methyl-17[beta]-hydroxy-5[alpha]-androst-1-en-3-one);
- (47) 17[alpha]-methyl-3[beta], 17[beta]-dihydroxy-5a-androstane;
- (48) 17[alpha]-methyl-3[alpha], 17[beta]-dihydroxy-5a-androstane;
- (49) 17[alpha]-methyl-3[beta], 17[beta]-dihydroxyandrost-4-ene;
- (50) 17[alpha]-methyl-4-hydroxynandrolone
(17[alpha]-methyl-4-hydroxy-17[beta]-hydroxyestr-4-en-3-one);
- (51) Methyldienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,
9(10)-dien-3-one);
- (52) Methyltrienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,
9-11-trien-3-one);

- (53) 17[alpha]-methyl-[Delta] 1-dihydrotestosterone (17b [beta]-hydroxy-17[alpha]-methyl-5[alpha]-androst-1-en-3-one) (a.k.a. '17-[alpha]-methyl-1-testosterone');
- (54) 19-nor-4-androstenediol (3[beta], 17[beta]-dihydroxyestr-4-ene);
- (55) 19-nor-4-androstenediol (3[alpha], 17[beta]-dihydroxyestr-4-ene);
- (56) 19-nor-5-androstenediol (3[beta], 17[beta]-dihydroxyestr-5-ene);
- (57) 19-nor-5-androstenediol (3[alpha], 17[beta]-dihydroxyestr-5-ene);
- (58) 19-nor-4-androstenedione (estr-4-en-3, 17-dione);
- (59) 19-nor-5-androstenedione (estr-5-en-3, 17-dione);
- (60) Norbolethone (13[beta], 17[alpha]-diethyl-17[beta]-hydroxygon-4-en-3-one);
- (61) Norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one);
- (62) Normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one);
- (63) Stenbolone (17[beta]-hydroxy-2-methyl-[5[alpha]]-androst-1-en-3-one);
- (64) Tetrahydrogestrinone (13[beta], 17[alpha]-diethyl-17[beta]-hydroxygon-4, 9, 11-trien-3-one);
- (65) Desoxymethyltestosterone (17a-methyl-5a-androst-2-en-17-ol, madol);
- (66) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);
- (67) Boldione (Androsta-1,4-diene-3,17-dione); ~~and~~
- (68) Methasterone (2 alpha-17 alpha-dimethyl-5 alpha-androstan-17beta-ol-3-one);
- (69) Prostanozol (17 beta-hydroxy-5 alpha-androstano[3,2-c]pyrazole; and
- ~~(68)~~ (70) Any salt, ester, or isomer of a drug or substance described or listed in this subsection, if that salt, ester, or isomer promotes muscle growth, except the term "anabolic steroid" does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the Secretary of Health and Human Services for nonhuman administration. If any person prescribes, dispenses, or distributes an anabolic steroid intended for administration to non-human species for human use, the person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph."

SECTION 4. Section 329-75, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

"(h) Any person who violates ~~[subsections (b) through]~~ subsection (g) is guilty of a class C felony."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 23, 2013.)

A Bill for an Act Relating to Time Shares.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514E-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) Any offering of a time sharing plan to the public shall disclose:
- (1) The name and address of the developer and of the time share units;
 - (2) The name and address of the plan manager, if any, and a description of the plan manager’s responsibilities and authority;
 - (3) A description of the time share units, including the developer’s schedule for completion of all buildings, units, and amenities and dates of availability;
 - (4) If the time share plan is located in a condominium property regime, a description of the project and any pertinent provisions of the project instruments;
 - (5) Any restraints on the transfer of the buyer’s time share interest in the time share units or plan;
 - (6) Whether the time share plan is a time share ownership plan or a time share use plan, along with a description of the rights and responsibilities under said plan;
 - (7) A statement that there is a seven-calendar-day period of mutual rescission;
 - (8) A statement that pursuant to section 514E-11.3, every sale or transfer, made in violation of this chapter is voidable at the election of the purchaser;
 - (9) Notice of any liens, title defects or encumbrances on or affecting the title to the units or plan;
 - (10) Notice of any pending or anticipated suits that are material to the time share units or plan, of which the developer has, or should have, knowledge;
 - (11) The total financial obligation of the purchaser, which shall ~~include~~ consist of:
 - (A) A statement that the purchaser is obligated to pay the initial price stated in the purchaser’s purchase agreement; and
 - (B) A list or description of any additional charges to which the purchaser may be subject;
 - (12) An estimate of the dues, maintenance fees, real property taxes, and similar periodic expenses, and the method or formula by which they are derived and apportioned; and
 - (13) Other disclosures required by the director, as provided by rules adopted pursuant to chapter 91.”

SECTION 2. Section 514E-11, Hawaii Revised Statutes, is amended to read as follows:

“§514E-11 Prohibited practices. It is a violation of this chapter for any sales agent or acquisition agent of time share units or plans to:

- (1) Fail to comply with the disclosure requirements set forth in section 514E-9 or any rule adopted pursuant thereto;
- (2) Use any promotional device, including but not limited to entertainment, prizes, gifts, food and drinks, games, transportation, luaus,

ocean recreational activities, land recreational activities, aerial recreational activities, or tours, or other inducements, or make any offer thereof, without fully disclosing orally and as provided in paragraph (3) that the device is being used or offered for the purpose of soliciting sales of time share units or interests;

- (3) Offer a prospective purchaser a prize or gift as part of any time share advertising or sales promotion plan, if in order to claim the prize, the prospective purchaser must attend and complete a sales presentation, unless written disclosure is furnished to the prospective purchaser at the time the prospective purchaser is notified of the prize or gift; provided that the written disclosure is written or printed in a size equal to at least ten-point bold type and contains all of the following:
 - (A) A full description of the exact prize or gift won by the prospective purchaser including its cash value;
 - (B) All material terms and conditions attached to the prize or gift;
 - (C) A statement that the consumer must attend and complete a sales presentation; and
 - (D) An identification of the time share project to be offered for sale, including type of ownership and price ranges of the time share interests in that project;
- (4) Misrepresent or deceptively represent any material fact concerning the time share plan or time share unit;
- (5) Make any representation that a time share interest is an investment, including but not limited to the value of the interest at resale;
- (6) Fail to honor and comply with all provisions of a contract or reservation agreement with the purchaser;
- (7) Include, in any contract or reservation agreement, provisions purporting to waive any right or benefit provided for purchasers pursuant to this chapter;
- (8) Receive from any prospective purchaser any money, property (including but not limited to a credit card), or other valuable consideration prior to signing a contract or reservation agreement for the purchase of a time share plan or unit; provided that this paragraph shall not apply to sums paid by a purchaser or prospective purchaser for a tourist activity or for any other product or service offered to induce attendance at a time share sales presentation;
- (9) Make any agreement or contract with a purchaser before delivering, furnishing, or tendering to that prospective purchaser any promised promotional device or other instrument; provided that nothing herein or in the rules adopted by the director shall require that any promotional device or instrument be delivered, furnished, or tendered to the prospective purchaser prior to making a sales presentation;
- (10) Distribute any promotional or disclosure material separately if the material was filed in a consolidated form;
- (11) Use any unregistered time share booth, or fail to display at all times a conspicuous, clear, and unobstructed sign of a permanent nature:
 - (A) That contains the words "time share" or "time sharing" in letters at least three inches tall and in a color that distinctively contrasts with the background on which the words appear;
 - (B) With minimum dimensions of nine inches by twenty-four inches, excluding any frame;

- (C) Posted on or in the booth in an upright position, perpendicular to the ground, and in a location that is easily visible to passersby; and
- (D) Consistent with such rules as the director may adopt pursuant to this chapter and consistent also with county ordinances.

No person shall post anything upon or adjacent to the sign, or include anything in the sign, which indicates that the booth is not being used for time share solicitation purposes. As used in this paragraph, "sign of a permanent nature" specifically excludes banners, grease boards, marker boards, handwritten signs, or signs constructed of temporary materials such as paper, poster board, or cardboard. The signage requirements of this paragraph shall not apply to a booth located within a project subject to a time share plan;

- (12) Misrepresent the amount of fees to be charged, including management fees, or the structure for future fee increase; or
- (13) Sell, offer for sale, or advertise for sale, by any person, partnership, firm, corporation, joint stock company, or other association engaged in marketing time share plans within the State, any tourist activity, including but not limited to land, aerial, or water recreational activities, at less than the actual cost of the activity paid for by the licensee thereof to such vendor or give, offer to give, or advertise with the intent to give away any such tourist activity with the purpose or effect of inducing the prospective purchaser to purchase a time share plan or to attend a time share marketing event.

Any violation of this section shall also constitute an unlawful or deceptive practice within the meaning of section 480-2; provided that in addition violations of section 514E-31 or of paragraph (11) shall result in a fine of not less than \$50 for each separate offense for a maximum aggregate amount of \$500."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.
(Approved April 23, 2013.)

ACT 50

H.B. NO. 530

A Bill for an Act Relating to Homelessness.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 8, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§8- Homelessness awareness month. The month of November shall be known and designated as "Homelessness Awareness Month" to promote public awareness of homelessness as a significant societal, public health and welfare, and public housing shortage problem. This month is not and shall not be construed as a state holiday."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.
(Approved April 25, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Office of the Lieutenant Governor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the lieutenant governor resides on a neighbor island, thereby regularly incurring work-related expenses by traveling to Oahu to conduct the lieutenant governor's official duties. The intent of this Act is to ensure fairness to any neighbor island person who wishes to work in the position of lieutenant governor. The purpose of this Act is to provide an allowance for expenses for a lieutenant governor whose legal residence is on an island other than Oahu, which is to be separate from and in addition to the salary of the lieutenant governor.

SECTION 2. Section 26-1, Hawaii Revised Statutes, is amended to read as follows:

"§26-1 Office of the lieutenant governor. (a) Except as otherwise provided by law, the lieutenant governor is designated the secretary of state for intergovernmental relations and shall perform the duties and functions heretofore exercised by the secretary of Hawaii. The duties and functions shall include, but not be limited to, recordation of all legislative and gubernatorial acts, certification of state documents, and maintenance of an official file of rules adopted by state departments as provided in chapter 91. The lieutenant governor may employ staff as necessary without regard to chapter 76.

(b) The lieutenant governor, with the approval of the governor, may designate some other officer of the government of the State to authenticate documents on behalf of the lieutenant governor during the lieutenant governor's temporary absence outside the State or during the lieutenant governor's illness whenever the documents require the signature of the lieutenant governor. The person shall affix the person's own signature to the document with the words, "for the lieutenant governor" following and the signature shall be deemed to satisfy the requirement of the lieutenant governor's signature on the document. The designation and approval shall be in writing and shall be filed in the office of the governor and a copy thereof, certified by the governor, shall be filed with the public archives. The person so designated shall serve without additional compensation and the lieutenant governor shall be responsible and liable on the lieutenant governor's official bond for all acts done by the person so designated in the performance of the duties on behalf of the lieutenant governor.

(c) Nothing in this section shall be construed to authorize the person to exercise and discharge the powers and duties of the office of the governor as provided by the first paragraph of Article V, section 4, of the Constitution of the State. The person shall not be authorized to exercise any powers whenever a successor to the lieutenant governor assumes the duties of the lieutenant governor pursuant to Article V, section 4, of the Constitution.

(d) In addition to the functions and duties provided by law, the lieutenant governor shall assume administrative responsibility for the office of information practices.

(e) The governor shall identify and direct other duties as necessary to the lieutenant governor.

(f) A lieutenant governor whose legal residence is on an island other than Oahu and who is required to remain away from the island of the lieutenant governor's legal residence but within the State overnight or longer while on

official business shall receive an allowance to cover personal expenses such as board, lodging, and incidental expenses. The allowance authorized under this subsection shall be set at a daily single rate to be determined by a joint agreement between the senate president and speaker of the house of representatives. This rate shall:

- (1) Not exceed the greater of the maximum allowance for such expenses payable to any public officer or employee of the State; and
- (2) Be reasonably calculated to cover the expenses specified in this subsection.

(g) The allowance authorized under subsection (f) shall be in addition to and shall not supplant any portion of the salary of the lieutenant governor determined pursuant to section 26-51. The allowance shall be paid out of any available appropriation made by the legislature for expenses, other than the salary, of the lieutenant governor."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 25, 2013.)

ACT 52

S.B. NO. 1185

A Bill for an Act Relating to Denial of General Excise Tax Benefits.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 237-9.3, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) For purposes of this section:

"General excise tax benefit" means any tax exemption, exclusion of a taxable amount, a reduction from the measure of a tax imposed, a tax deduction, a tax credit, a lower rate of tax, a segregation or division of taxable amounts between multiple taxpayers involved in the same transaction, or any income splitting allowed under this chapter.

"Nonprofit organization" means a corporate entity, association, or other duly chartered entity that is registered with the State ~~[and has received a written determination from the Internal Revenue Service that it is exempt under section 501(c)(3), section 501(c)(4), section 501(c)(8), or so much of section 501(c)(2) as applied to title holding entities that turn over their income to organizations that are exempt under section 501(c)(3), section 501(c)(4), or section 501(c)(8) of the Internal Revenue Code.] and is exempt from the application of this chapter pursuant to section 237-23(a)(3), (4), (5), (6), or (7)."~~

SECTION 2. Section 237-41.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The personal liability under this section applies to any officer, member, manager, or other person having control or supervision over amounts of gross proceeds or gross income collected to pay the general excise tax and held in trust under subsection (a), or who is charged with the responsibility for the filing of returns or the payment of general excise tax on gross income or gross proceeds collected and held in trust under subsection (a). The person shall be personally liable for any unpaid taxes and interest and penalties on those taxes, if

such officer or other person wilfully fails to pay or to cause to be paid any taxes due from the taxpayer pursuant to this chapter.

This subsection shall not apply to any officer, manager, or other person having control or supervision over amounts of gross proceeds or gross income collected to pay the general excise tax and held in trust under subsection (a), or who is charged with the responsibility for the filing of returns or the payment of general excise tax on gross income or gross proceeds collected and held in trust under subsection (a) for a nonprofit organization.

For purposes of this subsection:

"Nonprofit organization" means a corporate entity, association, or other duly chartered entity that is registered with the State ~~[and has received a written determination from the Internal Revenue Service that it is exempt under section 501(c)(3), section 501(c)(4), section 501(c)(8), or so much of section 501(c)(2) as applied to title holding entities that turn over their income to organizations that are exempt under section 501(c)(3), section 501(c)(4), or section 501(c)(8) of the Internal Revenue Code.] and is exempt from the application of this chapter pursuant to section 237-23(a)(3), (4), (5), (6), or (7).~~

"Wilfully fails to pay or to cause to be paid" shall be construed in accordance with judicial interpretations given to similar provisions of the Internal Revenue Code; consistent therewith, the term "wilfully" shall mean a voluntary, intentional violation of a known legal duty."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2013.

(Approved April 25, 2013.)

ACT 53

S.B. NO. 194

A Bill for an Act Relating to Criminal Procedure.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 853-4, Hawaii Revised Statutes, is amended to read as follows:

"§853-4 Chapter not applicable; when. (a) This chapter shall not apply when:

- (1) The offense charged involves the intentional, knowing, reckless, or negligent killing of another person;
- (2) The offense charged is:
 - (A) A felony that involves the intentional, knowing, or reckless bodily injury, substantial bodily injury, or serious bodily injury of another person; or
 - (B) A misdemeanor or petty misdemeanor that carries a mandatory minimum sentence and that involves the intentional, knowing, or reckless bodily injury, substantial bodily injury, or serious bodily injury of another person;

- (3) The offense charged involves a conspiracy or solicitation to intentionally, knowingly, or recklessly kill another person or to cause serious bodily injury to another person;
- (4) The offense charged is a class A felony;
- (5) The offense charged is nonprobationable;
- (6) The defendant has been convicted of any offense defined as a felony by the Hawaii Penal Code or has been convicted for any conduct that if perpetrated in this State would be punishable as a felony;
- (7) The defendant is found to be a law violator or delinquent child for the commission of any offense defined as a felony by the Hawaii Penal Code or for any conduct that if perpetrated in this State would constitute a felony;
- (8) The defendant has a prior conviction for a felony committed in any state, federal, or foreign jurisdiction;
- (9) A firearm was used in the commission of the offense charged;
- (10) The defendant is charged with the distribution of a dangerous, harmful, or detrimental drug to a minor;
- (11) The defendant has been charged with a felony offense and has been previously granted deferred acceptance of guilty plea status for a prior offense, regardless of whether the period of deferral has already expired;
- (12) The defendant has been charged with a misdemeanor offense and has been previously granted deferred acceptance of guilty plea status for a prior felony, misdemeanor, or petty misdemeanor for which the period of deferral has not yet expired;
- (13) The offense charged is:
 - (A) Escape in the first degree;
 - (B) Escape in the second degree;
 - (C) Promoting prison contraband in the first degree;
 - (D) Promoting prison contraband in the second degree;
 - (E) Bail jumping in the first degree;
 - (F) Bail jumping in the second degree;
 - (G) Bribery;
 - (H) Bribery of or by a witness;
 - (I) Intimidating a witness;
 - (J) Bribery of or by a juror;
 - (K) Intimidating a juror;
 - (L) Jury tampering;
 - (M) Promoting prostitution in the first degree;
 - (N) Promoting prostitution in the second degree;
 - (O) Abuse of family or household members;
 - (P) Sexual assault in the second degree;
 - (Q) Sexual assault in the third degree;
 - (R) A violation of an order issued pursuant to chapter 586;
 - (S) Promoting child abuse in the second degree;
 - (T) Promoting child abuse in the third degree;
 - (U) Electronic enticement of a child in the first degree; [or]
 - (V) Electronic enticement of a child in the second degree;
 - (W) Prostitution pursuant to section 712-1200(1)(b);
 - (X) Street solicitation of prostitution under section 712-1207(1)(b);
 - (Y) Solicitation of prostitution near schools or public parks under section 712-1209; or
 - (Z) Habitual solicitation of prostitution under section 712-1209.5;

ACT 54

- (14) The defendant has been charged with:
 - (A) Knowingly or intentionally falsifying any report required under chapter 11, part XIII with the intent to circumvent the law or deceive the campaign spending commission; or
 - (B) Violating section 11-352 or 11-353; or
- (15) The defendant holds a commercial driver's license and has been charged with violating a traffic control law, other than a parking law, in connection with the operation of any type of motor vehicle.
 - (b) The court may adopt by rule other criteria ~~[in this area.]~~ for purposes of this section.

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 25, 2013.)

ACT 54

S.B. NO. 442

A Bill for an Act Relating to Intoxicating Liquor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 712-1250.5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person, including any licensee as defined in section 281-1, commits the offense of promoting intoxicating liquor to a person under the age of twenty-one if the person ~~[knowingly]~~ recklessly:

- (a) Sells or offers for sale, influences the sale, serves, delivers, or gives to a person intoxicating liquor, and the person receiving the intoxicating liquor is a person under the age of twenty-one; or
- (b) Permits a person to possess intoxicating liquor while on property under his control, and the person possessing the intoxicating liquor is a person under the age of twenty-one.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2013.

(Approved April 25, 2013.)

A Bill for an Act Relating to Agriculture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that modern conveniences provide Hawaii residents with a variety of inexpensive food choices but diminish residents' appreciation for the natural environment responsible for Hawaii's food supply and contribute to residents' poor diets.

A report made to the twenty-sixth legislature in response to Senate Concurrent Resolution No. 121, S.D. 1, H.D. 1, adopted during the regular session of 2009, by a collaboration of private, public, and nonprofit entities identified food insecurity and growing obesity as severe challenges facing Hawaii. One in every three children born in the year 2000 is expected to develop diabetes and the 2003 food security task force report found that over nineteen per cent of Hawaii residents live in food insecure households. Supporting local agriculture through initiatives like a farm-to-school program can serve to combat these problems.

Increasing the consumption of locally grown foods will ensure that fresh, high quality produce is available for healthy meals in schools, hospitals, and correctional facilities throughout the State. The increased revenue for local farmers will assist struggling farmers and will ensure agriculture is a driving economic force in Hawaii providing job creation and food security for our State. Furthermore, the availability of local produce will ensure that Hawaii's children eat the highest quality food that will nourish their bodies, enhance their educational experience, and cultivate long-term healthy habits.

The purpose of this Act is to establish a policy to buy local produce and support local agriculture and codify that policy in chapter 226, Hawaii Revised Statutes, the Hawaii State Planning Act.

SECTION 2. Section 226-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) To achieve the agriculture objectives, it shall be the policy of this State to:

- (1) Establish a clear direction for Hawaii's agriculture through stakeholder commitment and advocacy.
- (2) Encourage agriculture by making best use of natural resources.
- (3) Provide the governor and the legislature with information and options needed for prudent decision making for the development of agriculture.
- (4) Establish strong relationships between the agricultural and visitor industries for mutual marketing benefits.
- (5) Foster increased public awareness and understanding of the contributions and benefits of agriculture as a major sector of Hawaii's economy.
- (6) Seek the enactment and retention of federal and state legislation that benefits Hawaii's agricultural industries.
- (7) Strengthen diversified agriculture by developing an effective promotion, marketing, and distribution system between Hawaii's food producers and [consumer markets locally, on the continental United States, and internationally.] consumers in the State, nation, and world.
- (8) Support research and development activities that strengthen economic productivity in agriculture, stimulate greater efficiency,

- and enhance the development of new products and agricultural by-products.
- (9) Enhance agricultural growth by providing public incentives and encouraging private initiatives.
- (10) Assure the availability of agriculturally suitable lands with adequate water to accommodate present and future needs.
- (11) Increase the attractiveness and opportunities for an agricultural education and livelihood.
- (12) ~~[Expand]~~ In addition to the State's priority on food, expand Hawaii's agricultural base by promoting growth and development of flowers, tropical fruits and plants, livestock, feed grains, forestry, food crops, aquaculture, and other potential enterprises.
- (13) Promote economically competitive activities that increase Hawaii's agricultural self-sufficiency~~[-]~~, including the increased purchase and use of Hawaii-grown food and food products by residents, businesses, and governmental bodies as defined under section 103D-104.
- (14) Promote and assist in the establishment of sound financial programs for diversified agriculture.
- (15) Institute and support programs and activities to assist the entry of displaced agricultural workers into alternative agricultural or other employment.
- (16) Facilitate the transition of agricultural lands in economically non-feasible agricultural production to economically viable agricultural uses."

SECTION 3. Section 226-103, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Priority guidelines to promote the growth and development of diversified agriculture and aquaculture:

- (1) Identify, conserve, and protect agricultural and aquacultural lands of importance and initiate affirmative and comprehensive programs to promote economically productive agricultural and aquacultural uses of such lands.
- (2) Assist in providing adequate, reasonably priced water for agricultural activities.
- (3) Encourage public and private investment to increase water supply and to improve transmission, storage, and irrigation facilities in support of diversified agriculture and aquaculture.
- (4) Assist in the formation and operation of production and marketing associations and cooperatives to reduce production and marketing costs.
- (5) Encourage and assist with the development of a waterborne and airborne freight and cargo system capable of meeting the needs of Hawaii's agricultural community.
- (6) Seek favorable freight rates for Hawaii's agricultural products from interisland and overseas transportation operators.
- (7) Encourage the development and expansion of agricultural and aquacultural activities which offer long-term economic growth potential and employment opportunities.
- (8) Continue the development of agricultural parks and other programs to assist small independent farmers in securing agricultural lands and loans.
- (9) Require agricultural uses in agricultural subdivisions and closely monitor the uses in these subdivisions.

- (10) Support the continuation of land currently in use for diversified agriculture.
- (11) Encourage residents and visitors to support Hawaii's farmers by purchasing locally grown food and food products."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 25, 2013.)

ACT 56

S.B. NO. 1079

A Bill for an Act Relating to Health Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 432:1-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Article 2, article 2D, parts II and IV of article 3, article 6, part III of article 7, article 9A, article 13, article 14G, and article 15 of chapter 431, sections 431:3-301, 431:3-302, 431:3-303, 431:3-304, and 431:3-305, and the powers granted by those provisions to the commissioner, shall apply to managed care plans, health maintenance organizations, or medical indemnity or hospital service associations that are owned or controlled by mutual benefit societies so long as the application in any particular case is in compliance with and is not preempted by applicable federal statutes and regulations."

SECTION 2. Section 432D-19, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Article 2, article 2D, part IV of article 3, article 6, part III of article 7, article 9A, article 13, article 14G, and article 15 of chapter 431, and sections 431:3-301 and 431:3-302, and the powers granted by those provisions to the commissioner shall apply to health maintenance organizations, so long as the application in any particular case is in compliance with and is not preempted by applicable federal statutes and regulations."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act, upon its approval, shall take effect on July 1, 2013.

(Approved April 25, 2013.)

ACT 57

S.B. NO. 1045

A Bill for an Act Relating to Electric Cooperatives.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Electric cooperatives are fundamentally distinct from traditional electric utilities in terms of both governance and organizational pur-

pose. The typical investor-owned utility is primarily driven by the incentive to increase shareholder profitability, with virtually no influence on policy or operations coming from the electricity customer. An electric cooperative, on the other hand, is a customer-owned organization operating on a not-for-profit basis under the governance of a board of directors democratically elected by the very same customers who receive the cooperative's services and who act in their role as owners and members of the cooperative. Whereas a natural tension exists between an investor-owned utility's profit motive and the interest of its customers, the nature of electric cooperatives provides multiple safeguards that ensure that the everyday user receiving electricity services has a say in determining whether that cooperative functions in the interests of both the organization and the individual consumers. Given these key distinctions between investor-owned utilities and electric cooperatives, the legislature finds that the public utilities commission and the division of consumer advocacy of the department of commerce and consumer affairs should at all times recognize these differences and consider the degree and extent to which the State's utilities regulation laws - those laws that typically balance the tension between an investor-owned utility's profit motive and the interest of the customer - should be applied to electric cooperatives. Further, the legislature finds that the public utilities commission should have the flexibility and discretion to determine the applicability of existing regulatory requirements to electric cooperatives in furtherance of the public interest. However, the legislature provides that this Act is not intended to exempt electric cooperatives from statutory statewide clean energy policy mandates, such as the State's renewable portfolio standards and energy efficiency portfolio standards.

The purpose of this Act is to specifically require the public utilities commission and the division of consumer advocacy to consider the ownership structure and interests of electric cooperatives and to authorize the public utilities commission to waive or exempt electric cooperatives from the provisions of chapter 269, Hawaii Revised Statutes, and other regulatory requirements, to the extent set forth in this Act.

SECTION 2. Section 269-31, Hawaii Revised Statutes, is amended to read as follows:

"§269-31 Application of this chapter. (a) This chapter shall not apply to commerce with foreign nations, or commerce with the several states of the United States, except insofar as the same may be permitted under the Constitution and laws of the United States; nor shall it apply to public utilities owned and operated by the State, or any county, or other political subdivision.

(b) Notwithstanding any provision of this chapter or any franchise, charter, law, decision, order, or rule to the contrary, the public utilities commission, sua sponte or upon the application of an electric cooperative, may waive or exempt an electric cooperative from any or all requirements of this chapter or any applicable franchise, charter, decision, order, rule, or other law upon a determination or demonstration that such requirement or requirements should not be applied to an electric cooperative or are otherwise unjust, unreasonable, or not in the public interest. Notwithstanding the above, the public utilities commission and the consumer advocate shall at all times consider the ownership structure and interests of an electric cooperative in determining the scope and need for any regulatory oversight or requirements over such electric cooperative. To the extent any other provision of this chapter or any franchise, charter, law, decision, order, or rule is contrary to or otherwise conflicts with this section in any manner, the provisions of this section shall govern and apply.

(c) For purposes of this chapter, an “electric cooperative” is a cooperative association or entity that is:

- (1) Owned by its members;
- (2) Formed pursuant to chapter 421C;
- (3) Operated on a not-for-profit basis;
- (4) Authorized pursuant to a legislatively granted franchise or other legislative authority to manufacture, sell, furnish, and supply electric light, electric current, or electric power to its members or a designated service area; and
- (5) Governed by a board of directors who are members of the electric cooperative and who are democratically elected by members of the electric cooperative pursuant to applicable bylaws.”

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 30, 2013.)

ACT 58

S.B. NO. 1197

A Bill for an Act Relating to the Department of Taxation Special Enforcement Section.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 134, Session Laws of Hawaii 2009, is amended by amending section 13 to read as follows:

“SECTION 13. This Act shall take effect upon its approval; provided that:

- (1) The amendments made to section 235-20.5, Hawaii Revised Statutes, by this Act shall not be repealed when section 235-20.5, Hawaii Revised Statutes, is reenacted on January 1, 2011, pursuant to section 8 of Act 206, Session Laws of Hawaii 2007; and
- (2) Sections 231-F, 231-J, 231-K, 231-L, 231-M, 231-N, 231-O, and 231-P, Hawaii Revised Statutes, in section 2 of this Act shall take effect on July 1, 2009; and
- (3) ~~This Act shall be repealed on June 30, 2014, and section 235-20.5, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of section 8 of Act 206, Session Laws of Hawaii 2007; provided further that sections 231-1, 237-9, and 237-12(b), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act].”~~

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 30, 2013.)

A Bill for an Act Relating to Boards of Review.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 232-6, Hawaii Revised Statutes, is amended to read as follows:

"§232-6 Appointment, removal, compensation. There is created a board of review for each taxation district. Additional boards may be created in any taxation district by the director of taxation where the number of disputes to be decided cannot be reasonably decided within one year. Each taxation district shall have no more than three boards. Each board shall consist of five members who shall be citizens of the State and residents of the district for which the board is appointed, shall have resided at the time of appointment for at least three years in the State, and shall be appointed and be removable by the governor as provided in section 26-34. The governor shall designate a member of each board to act as chairperson thereof. In addition, the governor shall designate a member of each board to act as vice chairperson who shall serve as the chairperson of the board during the temporary absence from the State, illness, or disqualification of the chairperson. Any vacancy in any board shall be filled for the unexpired term. Each member shall receive and be paid out of the treasury compensation for the member's services at the rate of \$10 per day for each day's actual attendance and the member's actual traveling expenses. No officer or employee of the State shall be eligible for appointment to any such board."

SECTION 2. Section 232-7, Hawaii Revised Statutes, is amended to read as follows:

"§232-7 Boards of review; duties, powers, procedure before. (a) The board of review for each district shall hear informally all disputes between the assessor and any taxpayer in all cases in which appeals have been duly taken and the fact that a notice of appeal has been duly filed by a taxpayer shall be conclusive evidence of the existence of a dispute; provided that this provision shall not be construed to permit a taxpayer to dispute an assessment to the extent that it is in accordance with the taxpayer's return.

(b) Each board shall hold public meetings at some central location in its taxation district ~~commencing not later than April 9 of each year~~ at least once annually and shall hear, as speedily as possible, all appeals presented for each year. A taxpayer's identity and final documents submitted in support or opposition of an appeal shall be public information; provided that an individual taxpayer is authorized to redact all but the last four digits of the taxpayer's social security number from any accompanying tax return. Each board shall have the power and authority to decide all questions of fact and all questions of law, excepting questions involving the Constitution or laws of the United States, necessary to the determination of the objections raised by the taxpayer in the notice of appeal; provided that no board shall have power to determine or declare an assessment illegal or void. Without prejudice to the generality of the foregoing, each board shall have power to allow or disallow exemptions pursuant to law whether or not previously allowed or disallowed by the assessor and to increase or lower any assessment.

(c) The board shall base its decision on the evidence before it, and, as provided in section 231-20, the assessment made by the assessor shall be deemed prima facie correct. The board shall file with the assessor concerned its decision

in writing on each appeal decided by it, and a certified copy of the decision shall be furnished by the assessor to the taxpayer concerned by delivery or by mailing the copy addressed to the taxpayer's last known place of residence.

(d) Each board and each member thereof in addition to all other powers shall also have the power to subpoena witnesses, administer oaths, examine books and records, and hear and take evidence in relation to any subject pending before the board. The tax appeal court shall have the power, upon request of the boards, to enforce by proper proceedings the attendance of witnesses and the giving of testimony by them, and the production of books, records, and papers at the hearings of the boards.

(e) If there exists more than one board of review in a taxation district, the chair of one board, administratively and without requirement of any formal action, may assign a member of that board to serve as a temporary member of the requesting board for purposes of establishing a quorum at a designated meeting of the requesting board. The temporary member shall serve only for the specific board meeting for which the assignment is made and only for the period necessary to establish and maintain a quorum. A temporary member may participate in discussion and vote on all matters before the board. Nothing herein shall prevent a member from being assigned multiple times under this subsection."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2013.

(Approved April 30, 2013.)

ACT 60

S.B. NO. 1188

A Bill for an Act Relating to the Estate and Generation-Skipping Transfer Taxes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 220, Session Laws of Hawaii 2012, enacted the Estate and Generation-Skipping Transfer Tax Reform Act, designated as chapter 236E, Hawaii Revised Statutes, that established the estate and generation-skipping transfer taxes based on the valuations, deduction, and expenses allowed for federal transfer tax purposes, but with tax rates independent of the federal transfer taxes.

The purpose of this Act is to make technical, nonsubstantive corrections to chapter 236E, Hawaii Revised Statutes, and make clear that a decedent who was in a civil union or recognized equivalent under the laws of the State computes the amount of any transfer tax due to the State as if the civil union or recognized equivalent were recognized as a marriage under the Internal Revenue Code.

SECTION 2. Section 236E-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Nonresident not citizen" means a decedent required to file under subchapter B of chapter 11 of the Internal Revenue Code."

SECTION 3. Section 236E-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) An exclusion from a Hawaii taxable estate shall be allowed to the estate of every decedent against the tax imposed by section 236E-8. For the purpose of this section, the applicable exclusion amount is the same as the federal applicable exclusion amount, or the exemption equivalent of the unified credit, without reduction for taxable gifts, as set forth for the decedent in chapter 11 of the Internal Revenue Code as further adjusted below:

- (1) For residents, 100 per cent of the applicable exclusion amount;
- (2) For nonresidents, an amount computed by multiplying the applicable exclusion amount by a fraction, the numerator of which is the value of the property in the State subject to tax under this chapter, and the denominator of which is the federal gross estate; and
- (3) For ~~[nonresidents who are not citizens,]~~ nonresidents not citizens, an amount computed by multiplying the exemption equivalent of the unified credit by a fraction, the numerator of which is the value of the property in the State subject to tax under this chapter, and the denominator of which is the federal gross estate.”

SECTION 4. Section 236E-7, Hawaii Revised Statutes, is amended as follows:

“~~[[§236E-7]]~~ **Hawaii taxable estate.** For the purposes of this chapter, “Hawaii taxable estate” means:

- (1) For residents, the federal taxable estate under section 2051, et seq., of the Internal Revenue Code but without regard for the deduction for state death taxes paid under section 2058 of the Internal Revenue Code;
- (2) For nonresidents, the federal taxable estate under section 2051, et seq., of the Internal Revenue Code, but without regard for the deduction for state death taxes paid under section 2058 of the Internal Revenue Code, multiplied by a fraction, the numerator of which is the value of the property in the State subject to tax under this chapter, and the denominator of which is the federal gross estate; and
- (3) For nonresidents not citizens, the federal taxable estate determined under section 2106 of the Internal Revenue ~~[[Code]]~~, but without regard for the deduction for state death taxes paid under section 2106(a)(4) of the Internal Revenue Code, multiplied by a fraction, the numerator of which is the value of the property with a situs in the State subject to tax under this chapter, and the denominator of which is the federal gross estate.”

SECTION 5. Section 236E-21, Hawaii Revised Statutes is amended by amending subsection (a) to read as follows:

“(a) If the amount paid with respect to any taxable transfer is less than the amount due under this chapter, the department shall assess the underpayment from the person responsible for payment; provided that a proceeding to assess the underpayment amount shall commence within:

- (1) Three years from the date the federal estate tax return was filed; or
- (2) One year after the date of final determination of the related federal transfer tax,

whichever is later.

Amounts set forth on a duly filed and accepted federal return for valuations of property, the gross estate, federal taxable estate, and applicable exclusion amount shall be conclusive for purposes of this chapter, and the return required under this chapter shall use the same amounts as the corresponding amounts on

the federal return[-]; provided that with regard to a decedent who was in a valid civil union or recognized equivalent under the laws of the State, but that is not recognized by the Internal Revenue Code as a marriage for federal tax purposes, computations of the valuations of property, the gross estate, federal taxable estate, and applicable exclusion amount shall be made as if the civil union or recognized equivalent under the laws of the State were recognized as a marriage.”

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval and shall apply to decedents dying or taxable transfers occurring after December 31, 2012.

(Approved April 30, 2013.)

ACT 61

S.B. NO. 1020

A Bill for an Act Relating to Charitable Solicitation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 467B-1, Hawaii Revised Statutes, is amended by amending the definition of “professional solicitor” to read as follows:

““Professional solicitor” means any person who, for a financial or other consideration, solicits contributions in this State for a charitable organization, or any person with whom the professional solicitor independently contracts to solicit for contributions. A person who is otherwise a professional fundraising counsel shall be deemed a professional solicitor if the person’s compensation is related to the amount of contributions received[-] or has custody or control of contributions received. The term does not include a bona fide volunteer. The term includes a salaried officer or employee of a charitable organization if the salaried officer or employee of the charitable organization receives percentage compensation. The term does not include an attorney, investment counselor or advisor, financial advisor, or banker, or other person who:

- (1) Advises another person to make a contribution to a charitable organization as part of the person’s employment; and
- (2) Does not receive compensation from the charitable organization for that advice.”

SECTION 2. Section 467B-2.1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The attorney general may make available a registration form to assist in the registration by charitable organizations [~~that must register in other states and shall designate the uniform registration statement developed by the National Association of State Charity Officials be used as the registration form under this section~~].”

SECTION 3. Section 467B-3, Hawaii Revised Statutes, is amended to read as follows:

“**§467B-3 Reciprocal agreements.** The attorney general may enter into a reciprocal agreement with the appropriate authority of another state for the purpose of exchanging information with respect to charitable organizations,

professional fundraising counsel, ~~[and]~~ professional solicitors~~[-]~~, and commercial co-venturers."

SECTION 4. Section 467B-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every charitable organization, professional fundraising counsel, ~~[and]~~ professional solicitor, and commercial co-venturer subject to this chapter shall keep true and accurate records as to its activities in a form that will accurately provide support for the information required by this chapter. Upon demand, the records shall be made available to the attorney general for inspection. Except as provided in subsection (b), records shall be retained for a period of not less than ~~[five]~~ three years."

SECTION 5. Section 467B-5.5, Hawaii Revised Statutes, is amended to read as follows:

"§467B-5.5 Commercial co-venturer's charitable sales promotions. (a) All charitable sales promotions by a commercial co-venturer shall disclose the name of the commercial co-venturer.

(b) Prior to the commencement of any charitable sales promotion in this State conducted by a commercial co-venturer using the name of a charitable organization, the commercial co-venturer shall obtain the written consent of the charitable organization whose name will be used during the charitable sales promotion. The commercial co-venturer shall file a copy of the written consent with the department not less than ten days prior to the commencement of the charitable sales promotion within this State. An authorized representative of the charitable organization and the commercial co-venturer shall sign the written consent, and the terms of the written consent shall include the following:

- (1) The goods or services to be offered to the public;
- (2) The geographic area where, and the starting and final date when, the offering is to be made;
- (3) The manner in which the name of the charitable organization is to be used, including any representation to be made to the public as to the amount or per cent per unit of goods or services purchased or used that is to benefit the charitable organization;
- (4) A provision for a final accounting on a per unit basis to be given by the commercial co-venturer to the charitable organization and the date when it is to be made; and
- (5) The date when and the manner in which the benefit is to be conferred on the charitable organization.

(c) A final accounting for each charitable sales promotion shall be prepared by the commercial co-venturer following the completion of the promotion. A copy of the final accounting shall be provided to the attorney general not more than twenty days after the copy is requested by the attorney general. A copy of the final accounting shall be provided to the charitable organization not more than twenty days after the copy is requested by the charitable organization. The final accounting shall be kept by the commercial co-venturer for a period of three years, unless the commercial co-venturer and the charitable organization mutually agree that the accounting should be kept by the charitable organization instead of the commercial co-venturer.

(d) A fine of \$20 shall be imposed on a commercial co-venturer who fails to file a written consent as required by subsection (b), unless it is shown that the failure is due to reasonable cause, for each day during which the violation

continues; provided that the total amount imposed under this subsection shall not exceed \$1,000."

SECTION 6. Section 467B-6.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Every charitable organization required to register pursuant to section 467B-2.1 shall annually file with the department a report for its most recently completed fiscal year. If the charitable organization files a Form 990 or 990-EZ with the Internal Revenue Service, the annual report shall be a copy of that Form 990 or 990-EZ. If the registered charitable organization is required to file a Form 990-T with the Internal Revenue Service, the annual report shall include a copy of that Form 990-T. If a charitable organization is not required to file a Form 990 or 990-EZ with the Internal Revenue Service, the annual report shall contain all information prescribed by the department. The charitable organization shall file its annual report not later than the fifteenth day of the fifth month following the close of its fiscal year. A charitable organization that has obtained an extension of time to file a Form 990 or 990-EZ from the Internal Revenue Service may obtain an extension of time to file the annual report with the department, by filing with the department a copy of the Internal Revenue Service's approved extension of time to file. The annual report shall be accompanied by a filing fee as prescribed by subsection (d). The department shall accept, under conditions prescribed by the attorney general, a copy or duplicate original of financial statements, reports, or returns filed by the charitable organization with the Internal Revenue Service or another state having requirements similar to the provisions of this section; provided that the attorney general may prescribe the form of the annual financial report for charitable organizations that file the Form 990-N with the Internal Revenue Service, or who are not required to file a Form 990 or 990-EZ with the Internal Revenue Service."

2. By amending subsection (e) to read:

"(e) If a return ~~[or]~~, report, or filing fee required under this section is not filed~~;~~ or paid, taking into account any extension of time for filing, unless it is shown that the failure is due to reasonable cause, a fine of \$20 shall be imposed for each day during which the violation continues; provided that the total amount imposed under this subsection shall not exceed \$1,000."

SECTION 7. Section 467B-8, Hawaii Revised Statutes, is amended to read as follows:

"§467B-8 Information filed to become public records. Statements, reports, professional fundraising counsel contracts or professional solicitor contracts, commercial co-venturer consents, and all other documents and information required to be filed under this chapter or by the attorney general shall become government records in the department and be open to the general public for inspection pursuant to chapter 92F; provided that information in any registration statement concerning the residential addresses of any officer or director or that identifies a charitable organization's financial or banking accounts and audited financial statements submitted by registered charities shall be confidential under chapter 92F."

SECTION 8. Section 467B-9, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) No charitable organization, professional solicitor, [Ø] professional fundraising counsel, or commercial co-venturer soliciting contributions shall use a name, symbol, or statement so closely related or similar to that used by another charitable organization or governmental agency that the use thereof would tend to confuse or mislead the public.”

2. By amending subsection (e) to read:

“(e) No charitable organization, professional fundraising counsel, [Ø] professional solicitor, or commercial co-venturer subject to this chapter shall use or exploit the fact of filing any statement, report, professional fundraising counsel contracts, written consents, or professional solicitor contracts or other documents or information required to be filed under this chapter or with the department so as to lead the public to believe that the filing in any manner constitutes an endorsement or approval by the State of the purposes or goals for the solicitation by the charitable organization, professional fundraising counsel, [Ø] professional solicitor[;], or commercial co-venturer; provided that the use of the following statement shall not be deemed a prohibited exploitation: “Information regarding this organization has been filed with the State of Hawaii department of the attorney general. Filing does not imply endorsement or approval of the organization or the public solicitation for contributions.””

3. By amending subsection (g) to read:

“(g) No person shall submit for filing on behalf of any charitable organization, professional fundraising counsel, [Ø] professional solicitor, or commercial co-venturer, any statement, financial statement, report, attachment, or other information to be filed with the department that contains information, statements, or omissions that are false or misleading.”

SECTION 9. Section 467B-9.5, Hawaii Revised Statutes, is amended to read as follows:

“**§467B-9.5 Financial statements.** Whenever the attorney general has reasonable grounds to believe that any charitable organization, professional fundraising counsel, [Ø] professional solicitor, or commercial co-venturer has engaged in any act or practice constituting a violation of this chapter or any rule or order adopted or issued, the attorney general may require the charitable organization, professional fundraising counsel, [Ø] professional solicitor, or commercial co-venturer to submit to the department an audited financial statement prepared in accordance with generally accepted accounting principles by an independent certified public accountant, or as otherwise required by the attorney general.”

SECTION 10. Section 467B-9.6, Hawaii Revised Statutes, is amended to read as follows:

“**§467B-9.6 Enforcement.** (a) If any charitable organization, professional fundraising counsel, [Ø] professional solicitor, or commercial co-venturer fails to file any statement, report, written consent, or other information required to be filed under this chapter, the attorney general may demand that the charitable organization, the professional fundraising counsel, [Ø ~~the~~] professional solicitor, or commercial co-venturer provide the statement, report, written consent, or other information not more than twenty days after demanded by the attorney general. This demand may be mailed to the address on file with the department.

(b) Whenever the attorney general has reason to believe that any charitable organization, professional fundraising counsel, professional solicitor, commercial co-venturer, or other person is operating in violation of this chapter, the

attorney general may investigate and bring an action in any court of this State to enjoin the charitable organization, professional fundraising counsel, professional solicitor, commercial co-venturer, or other person from continuing the violation or doing any acts in furtherance thereof, and for any other relief that the court deems appropriate.”

SECTION 11. Section 467B-11.5, Hawaii Revised Statutes, is amended to read as follows:

“§467B-11.5 Charitable organizations exempted from registration and financial disclosure requirements. The following charitable organizations shall not be subject to sections 467B-2.1 and 467B-6.5, if the organization submits information as the department may require to substantiate an exemption under this section:

- (1) Any duly organized religious corporation, institution, or society that is exempt from filing Form 990 with the Internal Revenue Service pursuant to sections 6033(a)(3)(A)(i) and (iii) and 6033(a)(3)(C)(i) of the Internal Revenue Code, as amended;
- (2) Parent-teacher associations;
- (3) Any educational institution that is licensed or accredited by any of the following licensing or accrediting organizations:
 - (A) Hawaii Association of Independent Schools;
 - (B) Hawaii Council of Private Schools;
 - (C) Western Association of Schools and Colleges;
 - (D) Middle States Association of Colleges and Schools;
 - (E) New England Association of Schools and Colleges;
 - (F) North Central Association of Colleges and Schools;
 - (G) Northwest ~~[Association of Schools and Colleges]~~ Commission on Colleges and Universities;
 - (H) Southern Association of Colleges and Schools; or
 - (I) The National Association for the Education of Young Children;

and any organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code expressly authorized by, and having an established identity with, such an educational institution; provided that the organization's solicitation of contributions is primarily directed to the students, alumni, faculty, and trustees of the institutions and their respective families;

- (4) Any nonprofit hospital licensed by the State or any similar provision of the laws of any other state;
- (5) Any corporation established by an act of the United States Congress that is required by federal law to submit to Congress annual reports, fully audited by the United States Department of Defense, of its activities including itemized accounts of all receipts and expenditures;
- (6) Any agency of this State, another state, or the federal government; and
- (7) Any charitable organization that normally receives less than \$25,000 in contributions annually, if the organization does not employ or compensate a professional solicitor or professional fundraising counsel. For purposes of this paragraph, an organization normally receives less than \$25,000 in contributions annually if, during the immediately preceding three fiscal years, it received, on average, less than \$25,000 in contributions.”

SECTION 12. Section 467B-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every professional fundraising counsel or professional solicitor, prior to any solicitation, shall register with the department. The registration statement shall contain the information set forth in subsection (e). The registration statement shall be accompanied by a fee in the amount of \$250, or in the amount and with any additional sums as may be prescribed by the attorney general. Renewal registration statements shall be filed with the department on or before July 1 of each calendar year by each professional fundraising counsel or professional solicitor. The renewal statement shall contain the information set forth in subsection (e). A renewal fee of \$250, or in any amount and with any additional sums as may be prescribed by the attorney general, shall accompany the renewal statement. If a renewal registration required under this section is not filed, unless it is shown that the failure is due to reasonable cause, a fine of \$20 shall be imposed for each day during which the violation continues; provided that the total amount imposed under this subsection shall not exceed \$1,000.”

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 14. This Act shall take effect upon its approval.

(Approved April 30, 2013.)

ACT 62

S.B. NO. 61

A Bill for an Act Relating to Juveniles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571-31.4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Informal adjustment under this section may include, among other suitable methods, programs, and procedures, the following:

- (1) Participation in restitution projects to obtain appropriate victim satisfaction;
- (2) Participation in community service projects so as to establish the child's self value in the community;
- (3) Participation in community-based programs which work with the child and family to maintain and strengthen the family unit so that the child may be retained in the child's own home;
- (4) Submission to neighborhood courts or panels upon procedures to be established by the court. As used in this paragraph “neighborhood courts or panels” are community organizations designed to settle minor disputes between parties on a voluntary basis using mediation or nonbinding arbitration;
- (5) Participation in programs to support, counsel, or provide work and recreational opportunities to help prevent delinquency;
- (6) Participation in educational programs or supportive services designed to help delinquents and to encourage other youths to remain in elementary and secondary schools or in alternative learning situations;
- (7) Participation in youth-initiated programs and outreach programs designed to assist youth and families;

- (8) Appropriate physical and medical examinations, vocational and aptitude testing, examinations for learning disabilities or emotional dysfunctions, and suitable counseling and therapy;
- (9) Placement with nonsecure or secure shelter facilities; [øø]
- (10) Restitution providing for monetary payment by the parents of the child[-]; or
- (11) Participation in a restorative justice program where the child and the child's parents or guardian, and other supporters of the child, may meet with the victim harmed by the child's law violation and the victim's supporters."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.
(Approved April 30, 2013.)

ACT 63

S.B. NO. 30

A Bill for an Act Relating to Campaign Spending.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 11-423, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

"(b) The affidavit shall state that the candidate knows the voluntary campaign expenditure limitations as set out in this part and that the candidate is voluntarily agreeing to limit the candidate's expenditures and those made on the candidate's behalf by the amount set by law. The affidavit shall be subscribed to by the candidate and notarized[-] and filed no later than the time of filing nomination papers with the chief election officer or county clerk."

2. By amending subsection (d) to read:

"(d) From January 1 of the year of any primary, special, or general election, the aggregate expenditures for each election by a candidate who voluntarily agrees to limit campaign expenditures, inclusive of all expenditures made or authorized by the candidate alone, all treasurers, the candidate committee, and noncandidate committees on the candidate's behalf, shall not exceed the following amounts expressed, respectively multiplied by the number of voters in the last preceding general election registered to vote in each respective voting district:

- (1) For the office of governor — \$2.50;
- (2) For the office of lieutenant governor — \$1.40;
- (3) For the office of mayor — \$2.00;
- (4) For the offices of state senator, state representative, [and] county council member, and prosecuting attorney — \$1.40; and
- (5) For all other offices — 20 cents."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.
(Approved April 30, 2013.)

A Bill for an Act Relating to Registration of Covered Offenders.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 80, Session Laws of Hawaii 2008, amended chapter 846E, Hawaii Revised Statutes, Hawaii's covered offender registration law, to take major steps toward compliance with title I of the federal Adam Walsh Child Protection and Safety Act of 2006, also known as the Sex Offender Registration and Notification Act, and enable the Hawaii covered offender registration program to effectively participate with the nationwide network of sex offender registries.

When declaring the purpose of the Sex Offender Registration and Notification Act, Congress stated: "In order to protect the public from sex offenders and offenders against children, and in response to the vicious attacks by violent predators . . . Congress in this Act establishes a comprehensive national system for the registration of those offenders." The Sex Offender Registration and Notification Act was in response to a number of high profile violent crimes committed by individuals who had previously been convicted of sex crimes but under the old standards were not required to register as sex offenders. Under the Sex Offender Registration and Notification Act, the predecessor sex offender program was repealed. The Sex Offender Registration and Notification Act established new baseline sex offender registry standards for state registries.

The sex offender registration and notification programs serve a number of purposes. The programs provide systems for tracking sex offenders released into our communities. In the event of a violent sex crime, the programs provide law enforcement with information on sex offenders in the area the crime was committed. The information may help law enforcement identify the perpetrator, and may help law enforcement to quickly locate and apprehend the perpetrator. The programs may also deter released offenders from committing other crimes because they require offenders to maintain contact with authorities and provide detailed information regarding their whereabouts. The public notification aspects of the programs allow members of the public access to information on sex offenders in their area, thereby enabling them to take reasonable measures to protect themselves.

The purpose of this Act is to clarify provisions in chapter 846E, Hawaii Revised Statutes, the State's covered offender registration law, address important issues that have come up in the implementation of the covered offender registration law, and continue to make efforts toward Sex Offender Registration and Notification Act compliance.

SECTION 2. Section 806-83, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Criminal charges may be instituted by written information for a felony when the charge is a class C felony under section 19-3.5 (voter fraud); section 128D-10 (knowing releases); section 132D-14(a)(1), (2)(A), and (3) (relating to penalties for failure to comply with requirements of sections 132D-7, 132D-10, and 132D-16); section 134-24 (place to keep unloaded firearms other than pistols and revolvers); section 134-7(a) and (b) (ownership or possession prohibited); section 134-8 (ownership, etc., of automatic firearms, silencers, etc., prohibited; penalties); section 134-9 (licenses to carry); section 134-17(a) (relating to false information or evidence concerning psychiatric or criminal history); section 134-51 (deadly weapons); section 134-52 (switchblade knives); section 134-53 (butterfly knives); section 188-23 (possession or use of explosives, electrofishing

devices, and poisonous substances in state waters prohibited); section 231-34 (attempt to evade or defeat tax); section 231-36 (false and fraudulent statements); section 245-37 (sale or purchase of packages of cigarettes without stamps); section 245-38 (vending unstamped cigarettes); section 245-51 (export and foreign cigarettes prohibited); section 245-52 (alteration of packaging prohibited); section 291C-12.5 (accidents involving substantial bodily injury); section 291E-61.5 (habitually operating a vehicle under the influence of an intoxicant); section 329-41 (prohibited acts B—penalties); section 329-42 (prohibited acts C—penalties); section 329-43.5 (prohibited acts related to drug paraphernalia); section 329C-2 (manufacture, distribution, or possession with intent to distribute an imitation controlled substance to a person under eighteen years of age); section 346-34(d) (2) and (e) (relating to fraud involving food stamps or coupons); section 346-43.5 (medical assistance frauds; penalties); section 383-141 (falsely obtaining benefits, etc.); section 431:2-403(b)(2) (insurance fraud); section 482D-7 (violation of fineness standards and stamping requirements); section 485A-301 (securities registration requirement); section 485A-401 (broker-dealer registration requirement and exemptions); section 485A-402 (agent registration requirement and exemptions); section 485A-403 (investment advisor registration requirement and exemptions); section 485A-404 (investment advisor representative registration requirement and exemptions); section 485A-405 (federal covered investment adviser notice filing requirement); section 485A-501 (general fraud); section 485A-502 (prohibited conduct in providing investment advice); section 707-703 (negligent homicide in the second degree); section 707-705 (negligent injury in the first degree); section 707-711 (assault in the second degree); section 707-713 (reckless endangering in the first degree); section 707-721 (unlawful imprisonment in the first degree); section 707-726 (custodial interference in the first degree); section 707-757 (electronic enticement of a child in the second degree); section 707-766 (extortion in the second degree); section 708-811 (burglary in the second degree); section 708-812.6 (unauthorized entry in a dwelling); section 708-821 (criminal property damage in the second degree); section 708-831 (theft in the second degree); section 708-833.5 (shoplifting); section 708-835.5 (theft of livestock); section 708-836 (unauthorized control of propelled vehicle); section 708-836.5 (unauthorized entry into motor vehicle in the first degree); section 708-839.5 (theft of utility services); section 708-839.55 (unauthorized possession of confidential personal information); section 708-839.8 (identity theft in the third degree); section 708-852 (forgery in the second degree); section 708-854 (criminal possession of a forgery device); section 708-858 (suppressing a testamentary or recordable instrument); section 708-875 (trademark counterfeiting); section 708-891.5 (computer fraud in the second degree); section 708-892.5 (computer damage in the second degree); section 708-895.6 (unauthorized computer access in the second degree); section 708-8100 (fraudulent use of a credit card); section 708-8102 (theft, forgery, etc., of credit cards); section 708-8103 (credit card fraud by a provider of goods or services); section 708-8104 (possession of unauthorized credit card machinery or incomplete cards); section 708-8200 (cable television service fraud in the first degree); section 708-8202 (telecommunication service fraud in the first degree); section 709-903.5 (endangering the welfare of a minor in the first degree); section 709-906 (abuse of family or household members); section 710-1016.3 (obtaining a government-issued identification document under false pretenses in the first degree); section 710-1016.6 (impersonating a law enforcement officer in the first degree); section 710-1017.5 (sale or manufacture of deceptive identification document); section 710-1018 (securing the proceeds of an offense); section 710-1021 (escape in the second degree); section 710-1023 (promoting prison contraband in the second degree); section 710-1024 (bail jumping in the first degree); section 710-1029 (hindering prosecution

in the first degree); section 710-1060 (perjury); section 710-1072.5 (obstruction of justice); section 711-1103 (riot); section 711-1109.3 (cruelty to animals; fighting dogs); section 711-1110.9 (violation of privacy in the first degree); section 711-1112 (interference with the operator of a public transit vehicle); section 712-1221 (promoting gambling in the first degree); section 712-1222.5 (promoting gambling aboard ships); section 712-1224 (possession of gambling records in the first degree); section 712-1243 (promoting a dangerous drug in the third degree); section 712-1246 (promoting a harmful drug in the third degree); section 712-1247 (promoting a detrimental drug in the first degree); section 712-1249.6 (promoting a controlled substance in, on, or near schools, school vehicles, or public parks); section 803-42 (interception, access, and disclosure of wire, oral, or electronic communications, use of pen register, trap and trace device, and mobile tracking device prohibited); or section [846E-9(b)] 846E-9 (failure to comply with covered offender registration requirements)."

SECTION 3. Section 846E-1, Hawaii Revised Statutes, is amended as follows:

1. By adding seven new definitions to be appropriately inserted and to read:

"Attorney general" means the attorney general of the State of Hawaii, the department of the attorney general, or an authorized representative of the attorney general.

"Chief of police" means the county chief of police, the county police department, or an authorized representative of the chief of police.

"Foreign conviction" means a conviction under the laws of:

- (1) Canada, United Kingdom, Australia, or New Zealand; or
- (2) Any other foreign country, if the United States Department of State, in its Country Reports on Human Rights Practices, has concluded that an independent judiciary vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred and enforces the right to a fair trial to the same or higher standard as the countries listed in paragraph (1).

"Out-of-state conviction" means a conviction in any other state of the United States, the District of Columbia, or the five principal United States territories, including the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the United States Virgin Islands.

"Permanent residence" means a building, permanent structure or unit therein, or watercraft where the covered offender resides and intends to reside indefinitely, or at least for the next one hundred eighty days, and which the offender owns, rents, or occupies with the consent of the owner.

"Temporary residence" means a building, permanent structure or unit therein, watercraft, emergency shelter, or transitional housing facility where the covered offender resides, but does not intend to reside for more than one hundred eighty days.

"Tribal conviction" means a conviction by a tribal court of an Indian tribe recognized by the government of the United States."

2. By amending the definitions of "conviction", "crime against minors", and "sexual offense" to read:

"Conviction" means a judgment on the verdict, or a finding of guilt after a plea of guilty or nolo contendere, excluding the adjudication of a minor[-], and occurs on the date judgment is entered.

"Crime against minors" excludes "sexual offenses" as defined in this section and means a criminal offense that consists of:

- (1) Kidnapping of a minor, by someone other than a parent;

- (2) Unlawful imprisonment in the first or second degree that involves the unlawful imprisonment of a minor by someone other than a parent;
 - (3) An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraph (1) or (2); ~~[or]~~
 - (4) A criminal offense that is comparable to or which exceeds one of the offenses designated in paragraphs (1) through (3) ~~[or any]; or~~
 - (5) Any federal, military, ~~[or]~~ out-of-state, tribal, or foreign conviction for any offense that, under the laws of this State, would be a crime against minors as designated in paragraphs (1) through ~~[(3);]~~ (4).
- “Sexual offense” means an offense that is:
- (1) Set forth in section ~~[707-730(1)(a), 707-730(1)(b), 707-730(1)(c), 707-730(1)(d) or (e), 707-731(1)(a), 707-731(1)(b), 707-731(1)(c), 707-732(1)(a), 707-732(1)(b), 707-732(1)(c), 707-732(1)(d), 707-732(1)(e), 707-732(1)(f);]~~ 707-730(1), 707-731(1), 707-732(1), 707-733(1)(a), 707-733.6, [712-1202(1)(a), 712-1202(1)(b);] 712-1202(1), or 712-1203(1), but excludes conduct that is criminal only because of the age of the victim, as provided in section 707-730(1)(b), or section 707-732(1)(b) if the perpetrator is under the age of eighteen;
 - (2) An act defined in section 707-720 if the charging document for the offense for which there has been a conviction alleged intent to subject the victim to a sexual offense;
 - (3) An act that consists of:
 - (A) Criminal sexual conduct toward a minor, including but not limited to an offense set forth in section 707-759;
 - (B) Solicitation of a minor who is less than fourteen years old to engage in sexual conduct;
 - (C) Use of a minor in a sexual performance;
 - (D) Production, distribution, or possession of child pornography chargeable as a felony under section 707-750, 707-751, or 707-752;
 - (E) Electronic enticement of a child chargeable under section 707-756 or 707-757 if the offense was committed with the intent to promote or facilitate the commission of another covered offense as defined in this section; or
 - (F) Solicitation of a minor to practice prostitution;
 - (4) A violation of privacy under section 711-1110.9;
 - (5) An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraphs (1) through (4);
 - ~~[(5)]~~ (6) A criminal offense that is comparable to or that exceeds a sexual offense as defined in paragraphs (1) through ~~[(4) or any]~~ (5); or
 - (7) Any federal, military, ~~[or]~~ out-of-state, tribal, or foreign conviction for any offense that under the laws of this State would be a sexual offense as defined in paragraphs (1) through ~~[(4); or]~~ (6).
 - ~~[(6)]~~ ~~An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraphs (1) through (5).]~~”

SECTION 4. Section 846E-1, Hawaii Revised Statutes, is amended by repealing the definitions of “mental abnormality”, “personality disorder”, and “predatory”.

~~["Mental abnormality" means a condition involving a disposition to commit criminal sexual offenses with a frequency that makes the person a menace to others.~~

~~"Personality disorder" shall have the same meaning as the term is used in the Diagnostic and Statistical Manual of Mental Health Disorders: DSM-IV, American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders (4th ed. 1994).~~

~~"Predatory" means an act directed at:~~

- ~~(1) A stranger; or~~
- ~~(2) A person with whom a relationship has been established or promoted for the primary purpose of victimization."]~~

SECTION 5. Section 846E-2, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) A covered offender shall register with the attorney general and comply with the provisions of this chapter for life or for a shorter period of time as provided in this chapter. Registration under this subsection is required whenever the covered offender, whether or not a resident of this State, remains in this State for more than ten days or for an aggregate period exceeding thirty days in one calendar year. A covered offender shall be eligible to petition the court in a civil proceeding for an order that the covered offender's registration requirements under this chapter be terminated, as provided in section 846E-10."

2. By amending subsection (d) to read:

"(d) Registration information for each covered offender shall include a signed statement by the covered offender containing:

- (1) The name, all prior names, nicknames and pseudonyms, and all aliases used by the covered offender or under which the covered offender has been known and other identifying information, including date of birth and any alias date of birth, social security number and any alias social security number, sex, race, height, weight, and hair and eye color;
- (2) The actual address and telephone number of the covered offender's permanent residence or ~~[any current, temporary address where the covered offender resides,]~~ the address of the covered offender's current temporary residence, or if an address is not available, a description of the place or area in which the covered offender resides for at least thirty nonconsecutive days within a sixty-day period, and for each address or place where the covered offender resides, how long the covered offender has resided there;
- (3) The actual address or description of the place or area, the actual length of time of the stay, and telephone number where the covered offender is staying for a period of more than ten days, if other than the stated residence;
- (4) If known, the future address and telephone number of the place where the covered offender is planning to reside, if other than the stated residence;
- (5) Any electronic mail address, any instant message name, any internet designation or moniker, and any internet address used for routing or self-identification;
- (6) Any cell phone number and other designations used for routing or self-identification in telephonic communications;
- (7) Names and, if known, actual business addresses of current and known future employers, including information for any place where

the covered offender works as a volunteer or otherwise works without remuneration, and the starting and ending dates of any such employment;

- (8) For covered offenders who may not have a fixed place of employment, a description of the places where such a covered offender works, such as information about normal travel routes or the general area or areas in which the covered offender works;
- (9) Professional licenses held by the covered offender;
- (10) Names and actual addresses of current and known future educational institutions with which the covered offender is affiliated in any way, whether or not compensated, including but not limited to affiliation as a faculty member, an employee, or a student, and the starting and ending dates of any such affiliation;
- (11) The year, make, model, color, and license or registration or other identifying number of all vehicles, including automobiles, watercrafts, and aircrafts, currently owned or operated by the covered offender and the address or description of the place or places where the covered offender's vehicle or vehicles are habitually parked, docked, or otherwise kept;
- (12) Passports and information about the passports, if the covered offender has passports, and documents establishing immigration status and information about these documents, if the covered offender is an alien;
- (13) A statement listing all covered offenses for which the covered offender has been convicted or found unfit to proceed or acquitted pursuant to chapter 704;
- (14) A statement indicating whether the covered offender has received or is currently receiving treatment ordered by a court of competent jurisdiction or by the Hawaii paroling authority;
- (15) A statement indicating whether the covered offender is a United States citizen; and
- (16) Any additional identifying information about the covered offender."

SECTION 6. Section 846E-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each person, or that person's designee, in charge of a jail, prison, hospital, school, or other institution to which a covered offender has been committed pursuant to a conviction, or an acquittal or finding of unfitness to proceed pursuant to chapter 704, for a covered offense, and each judge, or that judge's designee, who continues bail for or releases a covered offender following ~~[a guilty verdict or a plea of guilty or nolo contendere,]~~ sentencing and the entry of a judgment of conviction, who releases a covered offender on probation or who discharges a covered offender upon payment of a fine, and each agency having jurisdiction, shall, prior to the discharge, parole, or release of the covered offender:

- (1) Explain to the covered offender the duty to register and the consequences of failing to register under this chapter;
- (2) Obtain from the covered offender all of the registration information required by this chapter;
- (3) Inform the covered offender that if at any time the covered offender changes any of the covered offender's registration information, the covered offender shall notify the attorney general of the new registration information in writing within three working days;

- (4) Inform the covered offender that, if at any time the covered offender changes residence to another state, the covered offender shall register the new address with the attorney general and also with a designated law enforcement agency in the new state, if the new state has a registration requirement, within the period of time mandated by the new state's sex offender registration laws;
- (5) Obtain and verify fingerprints and a photograph of the covered offender, if these have not already been obtained or verified in connection with the offense that triggers the registration;
- (6) Require the covered offender to sign a statement indicating that the duty to register has been explained to the covered offender; and
- (7) Give one copy of the signed statement and one copy of the registration information to the covered offender."

SECTION 7. Section 846E-5, Hawaii Revised Statutes, is amended to read as follows:

"§846E-5 Periodic verification of registration information. ~~[Unless the covered offender is incarcerated or has registered with a designated law enforcement agency after establishing residence in another state, on the first day of every ninety-day period following the covered offender's initial registration date:~~

~~(1) The]~~ (a) For the covered offender who has registered a permanent residence address to which the United States Postal Service will deliver mail or a permanent residence and a registered post office box, during the first week of the months of January, April, July, and October of every year, the attorney general shall mail a nonforwardable verification form to the last reported permanent residence address or post office box of the covered offender[;]. Upon receipt of the verification form:

- ~~[(2)]~~ (1) The covered offender shall sign the verification form and state that the covered offender still resides at the address last reported to the attorney general and that no other registration information has changed or shall provide the new information; and
- ~~[(3)]~~ (2) The covered offender shall mail the signed and completed verification form to the attorney general within ten days after receipt of the form[; and
- ~~(4) If the covered offender fails to mail the verification form to the attorney general within ten days after receipt of the form, the covered offender shall be in violation of this chapter, unless the covered offender proves that the covered offender has not changed the residence address.~~

~~This section shall become effective on July 1, 1998].~~

~~(b) For the covered offender who has registered:~~

- ~~(1) A temporary residence address;~~
 - ~~(2) A description of a place or area in which the covered offender resides for at least thirty nonconsecutive days within a sixty-day period;~~
 - ~~(3) No place of residence; or~~
 - ~~(4) A permanent residence address, to which the United States Postal Service will not deliver mail, and has no registered post office box,~~
- during the first week of the months of January, April, July, and October of every year, the covered offender shall report to the chief of police where the covered offender resides, or to such other department or agency that may be designated by the attorney general in rules adopted pursuant to chapter 91 for purposes of administration of this section, and shall review the existing information in the registry that is within the covered offender's knowledge, correct any information

that has changed or is inaccurate, and provide any new information that may be required.

(c) The periodic verification provisions of this section shall not apply to covered offenders who are incarcerated or have registered with a designated law enforcement agency after establishing residence in another state."

SECTION 8. Section 846E-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A covered offender required to register under this chapter, who changes any of the covered offender's registration information after an initial registration with the attorney general, shall notify the attorney general of the new registration information in writing within three working days of the change. For purposes of this section, a person shall be deemed to have established a new residence during any period in which the person is absent from the person's registered residence for ten or more days. If, at any time, a covered offender required to register under this chapter is absent from the person's registered residence for ten or more days ~~[and fails to establish a new residence within the ten days that the covered offender is absent from their registered residence]~~, the covered offender ~~[, in addition to notifying]~~ shall notify the attorney general in writing within three working days ~~[that the covered offender no longer resides at the covered offender's registered residence, shall also report to any police station in the State by the last day of every month for verification of identity by photograph and fingerprint impression until the covered offender establishes a new residence and notifies the attorney general in writing of the actual address of the new residence. Each time the covered offender reports to a police station, the covered offender shall disclose every location where the covered offender has slept in the previous month.]~~ of the covered offender's current residence information. If the covered offender leaves the State and establishes a new residence ~~[is]~~ in another state that has a registration requirement, the person shall register with the designated law enforcement agency in the state to which the person moves, within the period of time mandated by the new state's sex offender registration laws."

SECTION 9. Section 846E-9, Hawaii Revised Statutes, is amended to read as follows:

"§846E-9 Failure to comply with covered offender registration requirements. (a) A person commits the offense of failure to comply with covered offender registration requirements if the person is required to register under this chapter and the person intentionally, knowingly, or recklessly:

- (1) Fails to register with the attorney general by providing to the attorney general or the Hawaii criminal justice data center the person's registration information;
- (2) Fails to report in person every five years until June 30, 2009, and beginning on July 1, 2009, once every year, during the thirty-day period following the offender's date of birth, to the chief of police where the covered offender's residence is located, or to such other department or agency designated by the attorney general;
- (3) While reporting to the chief of police or such other department or agency designated by the attorney general, fails to correct information in the registry within the offender's knowledge that has changed or is inaccurate regarding information required by section 846E-2(d)(1) through (12);
- (4) While reporting to the chief of police or such other department or agency designated by the attorney general, fails to provide new

information that may be required by section 846E-2(d)(1) through (12);

- (5) While reporting to the chief of police or such other department or agency designated by the attorney general, does not allow the police or other designated department or agency to take a current photograph of the person;
- (6) Fails to register in person with the chief of police having jurisdiction of the area where the covered offender resides or is present within three working days whenever the provisions of section 846E-2(g) require the person to do so;
- (7) Fails to notify the attorney general or the Hawaii criminal justice data center of a change of any of the covered offender's registration information in writing within three working days of the change;
- (8) Provides false registration information to the attorney general, the Hawaii criminal justice data center, or a chief of police;
- (9) Signs a statement verifying that all of the registration information is accurate and current when any of the registration information is not substantially accurate and current;
- (10) Having failed to establish a new residence within the ten days while absent from the person's registered residence for ten or more days:
 - (A) ~~Fails] fails~~ to notify the attorney general in writing within three working days ~~[that the person no longer resides at the person's registered residence; or~~
 - (B) ~~Fails to report to a police station in the State by the last day of every month; or] of the covered offender's current residence information;~~
- (11) Fails to mail or deliver the periodic verification of registration information form to the attorney general within ten days of receipt, as required by section 846E-5; provided that it shall be an affirmative defense that the periodic verification form mailed to the covered offender was delivered when the covered offender was absent from the registered address and the covered offender had previously notified the Hawaii criminal justice data center that the covered offender would be absent during the period that the periodic verification form was delivered[-]; or
- (12) Fails to report to the chief of police where the covered offender resides, or to such other department or agency that may be designated by the attorney general in rules adopted pursuant to chapter 91, during the first week of the months of January, April, July, and October of every year, and verify and update the covered offender's registration information as required by section 846E-5(b).

(b) With respect to subsection (a)(1), (2), (6), (7), (10), (11), or (12), if a defendant intends to rely upon the defense that the covered offender was in custody or civilly committed, the defendant shall within the time provided for the filing of pretrial motions or at a later time as the court may direct, notify the prosecutor in writing of the defendant's intention and file a copy of the notice with the court.

~~[(b)] (c)~~ Failure to comply with covered offender registration requirements is a class C felony."

SECTION 10. Section 846E-10, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) Tier 3 offenses. A covered offender whose covered offense is any of the following offenses shall register for life and, except as provided in subsection (e), may not petition the court, in a civil proceeding, for termination of registration requirements:

- (1) Any offense set forth in section 707-730(1)(a), (b), (d), or (e), 707-731(1)(a) or (b), 707-732(1)(a), (b), or (f), or 707-733.6;
- (2) An offense set forth in section 707-720; provided that the offense involves kidnapping of a minor by someone other than a parent;
- (3) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1) or (2);
- (4) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), or (3); or
- (5) Any federal, military, ~~or~~ out-of-state, tribal, or foreign offense that is comparable to one of the offenses in paragraph (1), (2), or (3).”

2. By amending subsections (c) and (d) to read:

“(c) Tier 2 offenses. A covered offender who has maintained a clean record for the previous twenty-five years, excluding any time the offender was in custody or civilly committed, and who has substantially complied with the registration requirements of this chapter for the previous twenty-five years, or for the portion of that twenty-five years that this chapter has been applicable, and who is not a repeat covered offender may petition the court, in a civil proceeding, for termination of registration requirements; provided that the covered offender’s most serious covered offense is one of the following:

- (1) Any offense set forth in section 707-730(1)(c), 707-731(1)(c), 707-732(1)(c), 707-750, 707-751, 712-1202(1)(b), or 712-1203(1)(b), as section 712-1203(1)(b) read prior to its amendment pursuant to section 9 of Act 147, Session Laws of Hawaii 2008;
- (2) An offense set forth in section 707-720; provided that the charging document for the offense for which there has been a conviction alleged intent to subject the victim to a sexual offense;
- (3) An offense set forth in section 707-756 that includes an intent to promote or facilitate the commission of another felony covered offense as defined in section 846E-1;
- (4) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1), (2), or (3);
- (5) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4); or
- (6) Any federal, military, ~~or~~ out-of-state, tribal, or foreign offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4).

(d) Tier 1 offenses. A covered offender who has maintained a clean record for the previous ten years, excluding any time the offender was in custody or civilly committed, and who has substantially complied with the registration requirements of this chapter for the previous ten years, or for the portion of that ten years that this chapter has been applicable, and who is not a repeat covered offender may petition the court, in a civil proceeding, for termination of registration requirements; provided that the covered offender’s most serious covered offense is one of the following:

- (1) Any offense set forth in section 707-732(1)(d) or (e), 707-733(1)(a), 707-752, 707-759, 711-1110.9, 712-1202(1)(a), or 712-1203(1);
- (2) An offense set forth in section 707-721 or 707-722; provided that the offense involves unlawful imprisonment of a minor by someone other than a parent;

- (3) An offense set forth in section 707-757 that includes an intent to promote or facilitate the commission of another covered offense as defined in section 846E-1;
- (4) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1), (2), or (3);
- (5) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4); ~~or~~
- (6) Any federal, military, ~~or~~ out-of-state, tribal, or foreign offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4) ~~or~~;
- (7) Any other covered offense that is not specified in subsection (a) or (c) or paragraph (1), (2), (3), (4), (5), or (6)."

SECTION 11. Sections 2, 3, 5, 6, 7, 8, and 10 shall apply to any acts committed prior to, on, or after the effective date of this Act.

SECTION 12. Section 9 of this Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 14. This Act shall take effect upon its approval.

(Approved April 30, 2013.)

ACT 65

S.B. NO. 512

A Bill for an Act Relating to Electrical Contractors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Act 35, Session Laws of Hawaii 2010, established new minimum qualification licensing requirements for electricians effective July 1, 2013. The legislature further finds that most in-state electrical workers are experienced in low voltage work, which includes wiring buildings at one hundred twenty/two hundred forty volts. However, there are currently not enough electricians, splicers, and linemen in the State who are experienced and qualified to work with high voltage (six hundred volts or higher) and who can perform certain complex maintenance and repair work affecting an electric utility.

The legislature additionally finds that Act 35, Session Laws of Hawaii 2010, has had inadvertent consequences. Due to the current lack of electricians, splicers, and linemen in the State who are experienced and qualified to work with high voltage, it may be necessary for an electric utility to contract and retain qualified personnel from other jurisdictions in the United States to perform such high voltage work. Where the electric utility retains such qualified personnel, the electric utility would have direct supervision of such personnel and would have the contractual authority to inspect and approve of all high voltage work prior to acceptance by the electric utility. Further, the operations of the electric utility are regulated and supervised by the public utilities commission. Such regulation and general supervision provides an additional layer of protection for the general public in the event the operations of the electric utility require review.

However, under the licensing requirements established by Act 35, Session Laws of Hawaii 2010, personnel from other jurisdictions who are qualified to perform such high voltage work, but are otherwise not licensed in the State, would be prohibited from offering assistance through a contract to an electric utility.

The legislature concludes that there are potential impacts to the health and safety of the State and its residents, and a specific exception to the licensing requirements for certain qualified individuals is therefore needed.

The purpose of this Act is to provide a limited exemption to the licensing requirements for certain individuals in situations when an electric utility must retain qualified individuals to work with high voltage (six hundred volts or higher) who are not licensed in the State but are otherwise deemed qualified by the electric utility.

SECTION 2. Section 448E-13, Hawaii Revised Statutes, is amended to read as follows:

“§448E-13 Exemption of public utility and community antennae television company ~~[employees.]~~ personnel. (a) The following persons shall be exempt from this chapter:

(1) All employees of a public utility within the State under a franchise or charter granted by the State which is regulated by the public utilities commission and community antennae television company, while so employed~~], shall be exempt from the provision of this chapter.]; and~~

(2) Employees of an electrical contractor duly licensed under chapter 444; provided that:

(A) Such contractor is retained by a public utility within the State under a franchise or charter granted by the State which is regulated by the public utilities commission to perform high voltage (six hundred volts or higher) electrical work for the public utility; and

(B) Such employees are deemed qualified by the public utility to perform such high voltage electrical work; provided further that in no circumstance shall such persons be less qualified than the public utility's own employees that perform such high voltage electrical work.

(b) Persons retained by a public utility pursuant to paragraph (a)(2) shall be exempt from the provisions of section 444-9.5.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that on June 30, 2018, this Act shall be repealed and section 448E-13, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.

(Approved April 30, 2013.)

A Bill for an Act Relating to the Reentry Commission.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 24, Special Session Laws of Hawaii 2009, as amended by section 4 of Act 76, Session Laws of Hawaii 2012, is amended by amending section 3 to read as follows:

“SECTION 3. (a) Effective January 1, 2010, there is established within the department of public safety a reentry commission to work with the department in monitoring and reviewing the comprehensive offender reentry program, including facility educational and treatment programs, rehabilitative services, work furloughs, and the Hawaii paroling authority’s oversight of parolees. The reentry commission may make recommendations to the department, the Hawaii paroling authority, and the legislature regarding reentry and parole services. The reentry commission shall ensure that the comprehensive offender reentry system under chapter 353H, Hawaii Revised Statutes, is implemented as soon as practicable to provide programs and services that result in the timely release of inmates on parole when the maximum terms have been served instead of delaying the release for lack of programs and services.

(b) The reentry commission shall consist of ten members who shall be selected as follows:

- (1) Three members shall be selected by the governor, of whom one shall be a rehabilitated former inmate;
- (2) Three members shall be selected by the president of the senate;
- (3) Three members shall be selected by the speaker of the house of representatives; and
- (4) The ~~[reentry coordinator]~~ director of public safety or the director’s designee shall serve as an ex officio nonvoting member.

(c) The reentry commission shall meet at least quarterly and members shall serve without compensation, but may be reimbursed for expenses, including travel expenses, that are necessary for the performance of their duties.

(d) The commission shall cease to exist on December 1, 2015.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 30, 2013.)

A Bill for an Act Relating to Intake Service Centers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 353-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The centers shall:

- (1) Provide orientation, guidance, and technical services;

- (2) Provide social-medical-psychiatric-psychological diagnostic evaluation;
- (3) ~~[(A)] Provide pretrial assessments on adult offenders that are consented to by the defendant or that are ordered by the court; and~~
~~[(B)] Conduct internal pretrial risk assessments on adult offenders within three working days of admission to a community correctional center which shall then be provided to the court for its consideration; provided that this paragraph shall not apply to persons subject to county or state detainers, holds, or persons detained without bail, persons detained for probation violation, persons facing revocation of bail or supervised release, and persons who have had a pretrial risk assessment completed prior to admission to a community correctional center. For purposes of this [subparagraph], "pretrial risk assessment" means an objective, research-based, validated assessment tool that measures a defendant's risk of flight and risk of criminal conduct while on pretrial release pending adjudication;~~
- ~~[(4) Assist in the conduct of presentence assessments on adult offenders and the preparation of presentence reports when requested by the courts;~~
- ~~[(5)] (4) Provide correctional prescription program planning and security classification;~~
- ~~[(6)] (5) Provide other personal and correctional services as needed for both detained and committed persons;~~
- ~~[(7)] (6) Monitor and record the progress of persons assigned to correctional facilities who undergo further treatment or who participate in prescribed correctional programs; [and~~
- ~~[(8)] (7) Provide continuing supervision and control of persons ordered to be placed on pretrial supervision by the court and persons ordered by the director[-]; and~~
- (8) Provide pretrial bail reports to the courts on adult offenders that are consented to by the defendant or that are ordered by the court. The pretrial bail reports shall be confidential and shall not be deemed to be public records. A copy of a pretrial bail report shall be provided only:
 - (A) To the defendant or defendant's counsel;
 - (B) To the prosecuting attorney;
 - (C) To the department of public safety;
 - (D) To any psychiatrist, psychologist, or other treatment practitioner who is treating the defendant pursuant to a court order;
 - (E) Upon request, to the adult client services branch; and
 - (F) In accordance with applicable laws, persons, or entities doing research."

SECTION 2. Act 139, Session Laws of Hawaii 2012, is amended by amending section 14 to read as follows:

"SECTION 14. This Act shall take effect on July 1, 2012; provided that:

- (1) Section 3 shall take effect on January 1, 2013;
- (2) Section 7 shall take effect on July 1, 2012, for any individual on parole supervision on or after July 1, 2012;
- (3) Section 8 shall take effect on July 1, 2012, and shall be applicable to individuals committing an offense on or after that date; and
- (4) Sections 3, 7, 8, 10, and 11 shall be repealed on July 1, 2018, and sections 353-10, 353-66, 706-670(1), 353-22.6, and 353-69, Hawaii

ACT 68

Revised Statutes, shall be reenacted in the form on which [it] they read on June 30, [2018-] 2012."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act, shall take effect on July 1, 2013; provided that the amendments made to section 353-10, Hawaii Revised Statutes, by section 1 of this Act shall not be repealed when that section is reenacted on July 1, 2018, pursuant to section 14 of Act 139, Session Laws of Hawaii 2012.

(Approved April 30, 2013.)

ACT 68

S.B. NO. 1180

A Bill for an Act Relating to Emergency Scheduling of Controlled Substances.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 329-11, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) The administrator may make an emergency scheduling by placing a substance into schedule I, II, III, IV, or V on a temporary basis, if the administrator determines the action is necessary to address or avoid a current or imminent danger to the health and safety of the public. In making the determination of whether to emergency schedule a substance, the administrator shall assess the degree of danger or probable danger of the substance by considering the following:

- (1) The actual or possible abuse of the substance including:
 - (A) Its history and current pattern of abuse;
 - (B) The scope, duration, and significance of abuse; and
 - (C) A judgment of the degree of actual or possible detriment that may result from the abuse of the substance; and
- (2) The risk to public health.

The department shall post a public notice thirty days prior to the effective date of the emergency scheduling action, at the state capitol, in the office of the lieutenant governor, and on the department's website for public inspection. If a substance is added or rescheduled under this subsection, the control shall be temporary and, if the next regular session of the state legislature has not enacted the corresponding changes in this chapter, the temporary designation of the added or rescheduled substance shall be nullified."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 30, 2013.)

ACT 69

S.B. NO. 888

A Bill for an Act Relating to Child Support Enforcement.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 576D-16, Hawaii Revised Statutes, is amended to read as follows:

"§576D-16 Duty of employers to report new hires to the agency; civil penalties for failure to comply with reporting; national new hire directory. (a) Beginning

October 1, 1998, each employer in the State shall report to the agency within twenty days of hire, the name, address, social security number, and the date services for remuneration were first performed of each new [employee] hire along with the name, federal identification number, and address of the employer. Each report shall be made on a W-4 form or its equivalent, and may be transmitted by first class mail, magnetically, or electronically. If an employer is transmitting reports to the agency magnetically or electronically, the report shall be transmitted twice monthly not less than twelve days nor more than sixteen days apart. The agency shall maintain these reports as the state directory of new hires.

(b) Employers failing to report the information required in subsection (a) shall be subject to a civil penalty of \$25 or, if the failure is the result of a conspiracy between the employer and the employee not to supply the required report or to supply a false or incomplete report, a \$500 fine.

(c) Within three working days after the date information is reported to the agency's state directory of new hires, the agency shall furnish the information to the national directory of new hires. The agency shall furnish extracts of the reports required to the national directory of new hires on a quarterly basis concerning the wages and compensation paid to individuals, by such dates, in such format, and containing such information as the United States Secretary of Health and Human Services shall specify in regulations.

(d) For the purposes of this section, the term "new hire" means an employee who has not previously been employed by the employer or was previously employed by the employer but has been separated from the prior employment for at least sixty consecutive days."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 30, 2013.)

ACT 70

S.B. NO. 332

A Bill for an Act Relating to Wages.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to protect employees in this State by requiring employers to keep accurate records of employees' rates of pay and provide employees with specific wage information on pay statements.

SECTION 2. Section 387-6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Every employer shall keep in or about the premises wherein any employee is employed a contemporaneous, true, and accurate record of [the];

(1) The name, address, and occupation of each [such] employee[~~;~~ of the];

(2) The amount paid each pay period to each [such] employee[~~;~~ of the];

(3) The hours worked each day and each workweek by each [such] employee[~~;~~ and of such];

(4) The rate or rates of pay of each employee and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or oth-

er basis; gross wages; deductions; allowances, if any, claimed as part of the minimum wage; and net wages; and

- (5) Any other information and for ~~[such]~~ the periods of time as the director ~~[of labor and industrial relations]~~ may by ~~[regulation]~~ rule prescribe.

The director or the director's authorized representative shall for the purpose of examination have access to and the right to copy ~~[from such]~~ the records. Every employer shall furnish to the director or the director's authorized representative ~~[such]~~ any information relating to the employment of workers and in ~~[such]~~ any manner as the director may prescribe."

2. By amending subsection (c) to read:

"(c) Every employer shall furnish each employee at every pay period a legible printed, typewritten, or handwritten ~~[notice]~~ record showing the ~~[employee's]~~ following:

- (1) The name of the employee;
- (2) The name of the employer;
- (3) The address and telephone number of the employer;
- ~~[(1) Total]~~ (4) The employee's total hours worked;
- ~~[(2) Overtime]~~ (5) The employee's regular and overtime hours;
- ~~[(3) Straight-time]~~ (6) The employee's straight-time compensation;
- ~~[(4) Overtime]~~ (7) The employee's overtime compensation;
- ~~[(5) Other]~~ (8) Any other compensation[;], including allowances, if any, claimed as part of the minimum wage;
- ~~[(6) Total]~~ (9) The employee's total gross compensation;
- ~~[(7) Amount]~~ (10) The amount and purpose of each deduction;
- ~~[(8) Total]~~ (11) The employee's total net compensation;
- ~~[(9) Date]~~ (12) The date of payment; and
- ~~[(10) Pay]~~ (13) The pay period covered; and
- (14) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or other basis, including overtime rate or rates of pay. For employees paid a piece rate, the record shall indicate the applicable piece rate or rates of pay, and the number of pieces completed at each piece rate;

provided that in lieu of the printed, typewritten, or handwritten ~~[notice]~~ record required by this subsection and upon receipt of written authorization from the employee, the employer may provide an electronic ~~[notice]~~ record that may be electronically accessed by the employee."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2014.

(Approved April 30, 2013.)

ACT 71

S.B. NO. 400

A Bill for an Act Relating to Human Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that sudden unexpected infant death is a broad term that refers to the sudden death of an infant less than one year of age where the specific cause of death is not immediately obvious prior to investi-

gation. According to the Centers for Disease Control and Prevention, more than four thousand five hundred sudden unexpected infant deaths occur in the United States every year. The specific cause of death may include but not be limited to sudden infant death syndrome, infection, accidental suffocation, poisoning or overdose, or metabolic disorders. Sudden infant death syndrome, the sudden death of an infant less than one year of age where the death cannot be explained even after a thorough investigation is conducted, accounts for half of the sudden unexpected infant deaths that occur in the United States every year and is the leading cause of death among infants less than one year of age. According to a Mayo Clinic web article, "[T]he exact cause is unknown, but sudden infant death syndrome may be associated with abnormalities in the portion of an infant's brain that controls breathing and arousal from sleep. Although all babies are vulnerable, certain sleep environments have been linked to increased risk. Perhaps the most important way to reduce the risk of sudden infant death syndrome is to place your baby on his or her back to sleep, on a firm crib mattress covered by a fitted sheet. Nothing else should go in the crib with your baby - no blanket, pillow, bumper pads or toys." The Centers for Disease Control and Prevention, Division of Reproductive Health, recognizes sudden infant death syndrome and sudden unexpected infant deaths as a public health issue and has established the Sudden Unexpected Infant Death Initiative to address the problem by improving investigation and reporting practices of sudden infant death syndrome and sudden unexpected infant deaths. The Initiative includes improving data collection and reporting regarding sudden unexpected infant deaths, using improved data to identify those at risk of sudden unexpected infant death, and training professionals to conduct comprehensive infant death investigations, with the hope that better data and the consistent classification of causes of death will result in a greater ability to prevent these types of deaths.

The legislature also finds that sudden unexpected infant deaths and sudden infant death syndrome are preventable through safe sleep policies that address causes of death that are associated with sudden unexpected infant deaths, such as accidental suffocation, and incorporate elements of the Sudden Unexpected Infant Death Initiative. However, Hawaii is one of nine states that do not regulate the proper sleep positions of infants and toddlers under the care of child care centers or family care homes.

The purpose of this Act is to require child care facilities, which include family child care homes, group child care centers, group child care homes, and infant and toddler child care centers, that care for children less than one year of age to implement and maintain safe sleep policies to prevent the occurrence of sudden unexpected infant deaths and sudden infant death syndrome.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to part VIII to be appropriately designated and to read as follows:

"§346- Safe sleep policy. (a) All child care facilities, which include family child care homes, group child care centers, and group child care homes, as those terms are defined in section 346-151, and infant and toddler child care centers, that are registered or licensed by the department to provide care for children less than one year of age shall implement and maintain a written safe sleep policy in accordance with any rules that may be adopted by the department to implement the provisions of this section. The purpose of the safe sleep policy shall be to maintain a safe sleep environment that prevents the occurrence of sudden infant death syndrome and sudden unexpected infant deaths in children less than one year of age.

(b) As used in this section:

"Sudden infant death syndrome" means the sudden death of an infant less than one year of age that cannot be explained after a thorough investigation has been conducted, including a complete autopsy, an examination of the death scene, and a review of the clinical history.

"Sudden unexpected infant death" means the sudden and unexpected death of an infant less than one year of age in which the manner and cause of death are not immediately obvious prior to investigation. Causes of sudden unexpected infant death include but are not limited to metabolic disorders, hypothermia or hyperthermia, neglect or homicide, poisoning, and accidental suffocation."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved April 30, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 72

S.B. NO. 563

A Bill for an Act Relating to the University of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that while the candidate advisory council for the board of regents of the University of Hawaii has nominated many outstanding appointees to the board, important concerns have been raised as to the selection process. Since the passage of Act 56, Session Laws of Hawaii 2007, to implement the amendments to article X, section 6, of the Hawaii state constitution, a number of issues have arisen from this new method of regent selection, which has hampered the work of the regents candidate advisory council and led to questions about the final selection of appointees during the senate confirmation process.

The purpose of this Act is to reconstitute the form and processes of the candidate advisory council to increase the consideration and appointment of qualified individuals to serve as members of the board of regents and effectively lead the University of Hawaii.

SECTION 2. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§304A- Candidate advisory council for the board of regents of the University of Hawaii. (a) The candidate advisory council for the board of regents of the University of Hawaii shall recruit, evaluate, and present to the governor qualified candidates for nomination to a vacant seat on the board of regents. The candidate advisory council shall be attached to the University of Hawaii for administrative purposes.

(b) The candidate advisory council shall:

(1) Develop and implement a fair and independent procedure for evaluating candidates to serve on the board of regents;

- (2) Require candidates and members of their immediate families to disclose any existing or anticipated contracts or financial transactions with the University of Hawaii;
- (3) Actively solicit and accept applications from potential candidates;
- (4) Evaluate candidates for the board of regents on their background, experience, and potential for discharging the responsibilities of a member of the board of regents, based upon the qualifications imposed by the Hawaii state constitution; and
- (5) Present a list of at least three candidates to the governor for nomination and appointment for each vacant seat on the board of regents of the University of Hawaii.
- (c) The candidate advisory council shall initiate the recruitment and evaluation of candidates for each vacancy on the board of regents within:
 - (1) Sixty days of a vacancy; or
 - (2) At least one hundred twenty days prior to the expiration of a regent's term.
- (d) To provide continuity for the board of regents, the governor may recommend to the candidate advisory council the reappointment of a member of the board of regents, subject to the advice and consent of the senate.
- (e) The candidate advisory council shall consist of seven voting members to be appointed without regard to section 26-34 as follows:
 - (1) One member who shall be appointed by the president of the senate;
 - (2) One member who shall be appointed by the speaker of the house of representatives; and
 - (3) Five members who shall be appointed by the governor.

A member of the Association of Emeritus Regents of the University of Hawaii, appointed by the chair of the Association of Emeritus Regents of the University of Hawaii, shall serve as an ex officio, nonvoting member of the candidate advisory council, for a term not to exceed two years; provided that the appointment shall run concurrently with the term of the appointing chair.

The president of the senate, speaker of the house of representatives, and governor are encouraged to appoint full-time students of the university, university faculty, university staff, or university alumni to the candidate advisory council; provided that if a full-time student is appointed to the candidate advisory council, the student shall have been enrolled as a full-time student for at least three consecutive semesters and shall serve for a term of two years.

(f) Voting members of the candidate advisory council shall serve for the following terms:

- (1) Those appointed by the president of the senate and speaker of the house of representatives shall serve for a term of four years; and
- (2) Those appointed by the governor shall serve for a term of four years; provided that such appointments shall run concurrently with the term of the appointing governor.

(g) Appointees to the candidate advisory council shall have a general understanding of the purposes of higher education, the mission and strategic goals of the University of Hawaii system, and the role and responsibilities of the board of regents. Appointees shall be individuals who are widely viewed as having placed the broad public interest ahead of special interests, are respected by the community, and are highly qualified to recruit and evaluate candidates for the governor's consideration.

(h) Any member of the candidate advisory council whose term has expired may continue in office as a holdover member until a successor is appointed; provided that a holdover member shall not hold office for more than six months following the expiration of the member's term of office.

(i) A vacancy occurring in the membership of the candidate advisory council during a term shall be filled for the remainder of the unexpired term thereof by the appointing authority who appointed the member who creates the vacancy.

(j) The candidate advisory council shall operate in a wholly nonpartisan manner. No member of the candidate advisory council shall run for or hold any elected office of the State or any of its political subdivisions while serving on the candidate advisory council. A member of the candidate advisory council shall resign from the candidate advisory council prior to filing nomination papers for an elected office of the State or any of its political subdivisions.

(k) The chairperson of the candidate advisory council shall be elected by a majority of the voting members of the candidate advisory council. A majority of the members to which the candidate advisory council is entitled shall constitute a quorum to conduct business. The concurrence of a majority of the voting members of the candidate advisory council shall be necessary to make any action of the candidate advisory council valid. The candidate advisory council shall meet annually and at other times as necessary. The candidate advisory council shall be exempt from part I of chapter 92.

(l) Members of the candidate advisory council shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties."

SECTION 3. Section 304A-104, Hawaii Revised Statutes, is amended to read as follows:

"§304A-104 Regents; appointment; tenure; qualifications; meetings. (a) The affairs of the university shall be under the general management and control of the board of regents ~~[consisting]~~. The board shall consist of fifteen members who shall be appointed [and] by the governor from lists of qualified candidates presented to the governor by the candidate advisory council, pursuant to section 304A- , and shall be confirmed by the senate; provided that if the list of qualified candidates includes fewer than three candidates at any time during the nomination and confirmation process, the governor may request that the candidate advisory council reopen recruitment for qualified candidates. Members may be removed by the governor. Except as otherwise provided by law, state officers shall be eligible for appointment and membership.

The term of each member shall be five years, except as provided for the initial appointment in section 26-11; provided that the term of the student member shall be two years. Every member may serve beyond the expiration date of the member's term of appointment until the member's successor has been appointed by the governor and confirmed by the senate in accordance with article X, section 6 of the Hawaii state constitution. Members shall serve no more than two consecutive five-year terms; provided that the members who are initially appointed to terms of two years or less pursuant to section 26-11(a) may be reappointed to two ensuing five-year terms. If a member is to be appointed to a second term of five years, the senate shall consider the question of whether to reconfirm the member at least one hundred twenty days prior to the conclusion of a member's first five-year term; provided that if the senate is not in session within one hundred twenty days prior to the conclusion of the member's first five-year term, the member shall continue to serve until the senate convenes for the next regular session or the next special session for which the senate is authorized to consider the question of reconfirmation.

(b) In determining whether to confirm the governor's nominee to the board of regents, the senate shall consider the combination of abilities, breadth

of experiences, and characteristics of the board of regents, as a whole, that will best serve the diverse interests and needs of the students of the university system and assist the university system in achieving its strategic goals and performance indicators. The senate shall consider whether the board reflects the diversity of the student population, the various counties of the State, and a broad representation of higher education-related stakeholders.

~~[(b)]~~ (c) At ~~[a meeting preceding July 1 of each year,]~~ its first meeting after June 30 of each year, the board of regents shall elect a chairperson and ~~[up to two]~~ one or more vice-chairpersons ~~[whose terms shall be from July 1 to]~~ who shall serve until the adjournment of the first meeting of the board of regents after June 30 of the next year, or thereafter until their successors are elected[-]; provided that the chairperson and vice chairpersons shall not be elected prior to the taking of office of regents whose terms shall begin on July 1 of that year. The board shall appoint a secretary, who shall not be a member of the board. The president of the university shall act as executive officer of the board. A majority of the board of regents shall constitute a quorum to conduct business, and the concurrence of a majority of all the members to which the board of regents is entitled shall be necessary to make any action of the board of regents valid. The board shall meet at least ten times annually and, from time to time, may meet in each of the counties of Hawaii, Maui, and Kauai.

~~[(e)]~~ (d) The governor shall notify the ~~[regents]~~ candidate advisory council for the board of regents of the University of Hawaii in writing within ten days of receiving notification that a member of the board of regents is resigning[-] or has died, or is being removed by the governor.

~~[(d)]~~ (e) The members of the board of regents shall serve without pay but shall be entitled to their travel expenses within the State when attending meetings of the board or when actually engaged in business relating to the work of the board."

SECTION 4. Section 304A-104.5, Hawaii Revised Statutes, is repealed.

SECTION 5. Each member serving on the regents candidate advisory council for the board of regents of the University of Hawaii on the effective date of this Act shall serve until that member's current term expires, whereupon:

- (1) If that member was appointed by the president of the senate or speaker of the house of representatives, then the president of the senate or speaker of the house of representatives, as the case may be, shall make the appointment to fill the member's seat in accordance with this Act;
- (2) If that member was appointed by the chair of the Association of Emeritus Regents of the University of Hawaii, then the chair of the Association of Emeritus Regents of the University of Hawaii shall make the appointment to fill the member's seat in accordance with this Act; and
- (3) If that member was appointed by an authority other than the president of the senate, speaker of the house of representatives, or chair of the Association of Emeritus Regents of the University of Hawaii, then the governor shall make the appointment to fill the member's seat in accordance with this Act.

If the seat of any member of the regents candidate advisory council serving on the effective date of this Act becomes vacant prior to the expiration of the member's term, then the appropriate appointing authority shall fill the vacancy for the remainder of the unexpired term in accordance with this Act.

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SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act shall take effect upon its approval.

(Approved May 13, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 73

S.B. NO. 4

A Bill for an Act Relating to Motor Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291-11.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as otherwise provided by law, no person[;

- (1) ~~Shall~~ shall operate a motor vehicle upon any public highway unless the person is restrained by a seat belt assembly and all passengers in the front or back seat of the motor vehicle are restrained by a seat belt assembly [if between the ages of eight and fourteen,] or are restrained pursuant to section 291-11.5 if under eight years of age[;
- (2) ~~If fifteen years of age or more shall be a passenger in the front seat of a motor vehicle being operated upon any public highway unless such person is restrained by a seat belt assembly; and~~
- (3) ~~If between the ages of fifteen and seventeen, shall be a passenger in the back seat of a motor vehicle being operated upon any public highway unless such person is restrained by a seat belt assembly].~~

As used in this section:

“Restrained” means that the seat belt assembly is worn as it was designed and intended to be worn.

“Seat belt assembly” means the seat belt assembly that is required to be in the motor vehicle under any federal motor vehicle safety standard issued pursuant to Public Law 89-563, the National Traffic and Motor Vehicle Safety Act of 1966, as amended, unless original replacement seat belt assemblies are not readily available. If replacement assemblies are not readily available, seat belts of federally approved materials with similar protective characteristics may be used. Such replacement seat belt assemblies shall be permanently marked by the belt manufacturer indicating compliance with all applicable federal standards.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 2013.)

ACT 74

H.B. NO. 980

A Bill for an Act Relating to Highway Safety.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Distracted driving is a problem of national concern. The legislature finds that the task of driving requires a driver's full attention in focusing on the roadway and driving maneuvers. Any distraction that diverts a driver's

attention from the primary tasks of maneuvering the vehicle and responding to critical events increases the driver's risk of being involved in a motor vehicle crash. A distraction is anything that takes a driver's eyes off the road (visual distraction), mind off the road (cognitive distraction), or hands off the wheel (manual distraction).

The use of cellular phones or other mobile electronic devices during the task of driving constitutes a distraction and poses a risk of harm to the driver and others in the vehicle or on the road. New research findings by the National Highway Traffic Safety Administration show that nearly six thousand individuals, which is approximately sixteen per cent of all fatal crashes, died in 2008 in crashes involving a distracted or inattentive driver, and more than five hundred thousand individuals were injured in such collisions. A survey has shown that on any given day during 2008, more than eight hundred thousand vehicles were driven by someone using a hand-held cellular phone. Federal researchers have observed drivers of all ages using a variety of hand-held devices while driving—cellular phones, iPods, video games, Blackberrys, and Global Positioning System receivers. In particular, the use of cellular phones for talking and texting while driving has become more prevalent on our nation's roadways.

The National Safety Council reported that the Harvard Center of Risk Analysis concluded that cellular-phone use contributes to an estimated six per cent of all crashes. That percentage equates to 636,000 crashes, three hundred thirty thousand injuries, twelve thousand serious injuries, and two thousand six hundred deaths each year. The annual cost of crashes caused by cellular-phone use is estimated at \$43,000,000,000. The Wireless Association reports that there are more than 270,000,000 cellular phone subscribers nationwide and that eighty-one per cent of the individuals surveyed admitted to talking on a cellular phone while driving.

In 2007, the Hawaii department of transportation showed that of the 8,770 collisions that happened during that year, 2,871, or thirty-two per cent, were attributed to inattention to driving. The new surface transportation bill, Moving Ahead for Progress in the 21st Century Act (MAP-21) (P.L. 112-141), passed by Congress in 2012, authorizes \$22,500,000 in federal fiscal year 2013 and \$23,100,000 in federal fiscal year 2014 to be distributed to the states that have a distracted driver state law. Unfortunately, Hawaii is not eligible for this funding due to the absence of a state distracted driving statute that prohibits the use of mobile electronic devices while driving.

The purpose of this Act is to prohibit the use of cellular phones and other mobile electronic devices while operating a vehicle, with certain exceptions, and to specifically prohibit activities such as texting, instant messaging, gaming, and e-mailing, which take a driver's eyes off the road, mind off the road, and hands off the wheel.

SECTION 2. Chapter 291C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§291C- Mobile electronic devices. (a) No person shall operate a motor vehicle while using a mobile electronic device.

(b) The use of a mobile electronic device for the sole purpose of making a “911” emergency communication shall be an affirmative defense to this law.

(c) No person under eighteen years of age shall operate a motor vehicle while utilizing a hands-free mobile electronic device, except for the sole purpose of making a “911” emergency communication.

(d) The following persons shall be exempt from subsection (a):

- (1) Emergency responders using a mobile electronic device while in the performance and scope of their official duties;
- (2) Drivers using a two-way radio or a private Land Mobile Radio System, within the meaning of title 47 Code of Federal Regulations part 90, while in the performance and scope of their work-related duties and who are operating fleet vehicles or who possess a commercial vehicle license; or
- (3) Drivers holding a valid amateur radio operator license issued by the Federal Communications Commission and using a half-duplex two-way radio.

(e) As used in this section:

"Emergency responders" include firefighters, emergency medical technicians, mobile intensive care technicians, civil defense workers, police officers, and federal and state law enforcement officers.

"Fleet vehicle" means any vehicle validly registered pursuant to section 286-53.5.

"Mobile electronic device" means any handheld or other portable electronic equipment capable of providing wireless or data communication between two or more persons or of providing amusement, including but not limited to a cellular phone, text messaging device, paging device, personal digital assistant, laptop computer, video game, or digital photographic device, but does not include any audio equipment or any equipment installed in a motor vehicle for the purpose of providing navigation, emergency assistance to the operator of the motor vehicle, or video entertainment to the passengers in the rear seats of the motor vehicle.

"Operate" a motor vehicle means the same as is defined in section 291E-1.

"Use" or "using" means holding a mobile electronic device while operating a motor vehicle.

(f) Every person who violates this section shall be subject to the following penalties:

- (1) For a first violation, or any violation not preceded within one year by a prior violation of this section, a fine of not less than \$100 and not more than \$200;
- (2) For a violation that occurs within one year of a prior violation of this section, a fine of not less than \$200 and not more than \$300; and
- (3) For a violation that occurs within two years of two prior violations of this section, and for the fourth and each subsequent violation of this section, regardless of when committed, a fine of not less than \$300 and not more than \$500.

If a person violates this section while operating a motor vehicle in a school zone or construction area, as defined in section 291C-104, the fines imposed pursuant to this subsection shall be doubled.

(g) Any violation as provided in subsections (a) and (c) shall not be deemed to be a traffic infraction as defined in section 291D-2.

(h) This section shall supersede any county ordinance regulating the use or utilization of mobile electronic devices while operating a motor vehicle."

SECTION 3. Section 286-108, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as provided in section 286-107.5(a), the examiner of drivers shall examine every applicant for a driver's license, except as otherwise provided in this part. The examination shall include a test of:

- (1) The applicant's eyesight and any further physical examination that the examiner of drivers finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways;
- (2) The applicant's ability to understand highway signs regulating, warning, and directing traffic;
- (3) The applicant's knowledge of the rules of the road based on the traffic laws of the State and the traffic ordinances of the county where the applicant resides or intends to operate a motor vehicle; provided that the examination shall specifically test the applicant's knowledge of the provisions of section 291C-121.5[;] and section 291C-; and
- (4) The actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

The examinations shall be appropriate to the operation of the category of motor vehicle for which the applicant seeks to be licensed and shall be conducted as required by the director.

The examiner of drivers shall require every applicant to comply with section 286-102.5.

The examiner of drivers may waive the actual demonstration of ability to operate a motorcycle or motor scooter for any person who furnishes evidence, to the satisfaction of the examiner of drivers, that the person has completed the motorcycle education course approved by the director in accordance with section 431:10G-104.

At the time of examination, an application for voter registration by mail shall be made available to every applicant for a driver's license.

For the purposes of this section, the term "applicant" does not include any person reactivating a license under section 286-107.5(a)."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 6. This Act shall take effect on July 1, 2013.

(Approved May 20, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 75

H.B. NO. 877

A Bill for an Act Relating to the Designees for the Directors of the Departments of Commerce and Consumer Affairs, of Health, of Human Services, and of Labor and Industrial Relations for the Board of Directors of the Hawaii Health Insurance Exchange.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 435H-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The membership of the board shall reflect geographic diversity and the diverse interests of stakeholders including consumers, employers, insurers, and dental benefit providers. The director of commerce and consumer affairs or the director’s designee, the director of health or the director’s designee, the director of human services or the director’s designee, and the director of labor and industrial relations or the director’s designee shall be ex-officio, voting members of the board.

The director of commerce and consumer affairs, the director of health, the director of human services, and the director of labor and industrial relations may select a designee for a specified meeting or meetings. Such selection of the designee shall be submitted in writing to the board of directors prior to or at the meeting in which the designee will serve.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 2013.)

ACT 76

S.B. NO. 94

A Bill for an Act Relating to the Hawaii Interagency Council on Homelessness.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-382, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:
 - “(a) The Hawaii interagency council on homelessness shall be composed of the following members or the member’s designee:
 - (1) Governor’s coordinator on homelessness, who shall serve as chair;
 - (2) Director of human services;
 - (3) Administrator of the homeless programs office of the department of human services;
 - (4) Director of health;
 - (5) Director of labor and industrial relations;
 - (6) Director of public safety;
 - (7) Director of business, economic development, and tourism;
 - (8) Chairperson of the Hawaiian homes commission;
 - (9) Adjutant general;
 - (10) Chairperson of the board of trustees of the office of Hawaiian affairs;
 - (11) Attorney general;
 - (12) Superintendent of education;
 - (13) ~~[One member]~~ Two members of the house of representatives to be designated by the speaker of the house of representatives[;], of whom one member shall be designated by the speaker of the house of representatives to serve as an alternate member on the Hawaii interagency council on homelessness to serve in the other member’s absence;
 - (14) ~~[One member]~~ Two members of the senate to be designated by the president of the senate[;], of whom one member shall be designated by the president of the senate to serve as an alternate member on the

Hawaii interagency council on homelessness to serve in the other member's absence;

- (15) A representative of the Hawaii public housing authority;
- ~~[(45)]~~ (16) The mayor of each county;
- ~~[(46)]~~ (17) A representative of the continuum of care programs in each county, to be designated by the respective mayors;
- ~~[(47)]~~ (18) A representative of the United States Department of Veterans Affairs who shall be requested to serve by the governor;
- ~~[(48)]~~ (19) A representative from the Office of Community Planning and Development, United States Department of Housing and Urban Development, who shall be requested to serve by the governor;
- ~~[(49)]~~ (20) A representative of a faith-based organization with interfaith relationships, to be designated by the governor; and
- ~~[(20)]~~ (21) A representative of the business community, to be designated by the governor."

2. By amending subsection (c) to read:

"(c) ~~[(H)]~~ Except as provided in subsection (a)(13) and (a)(14), if a member of the Hawaii interagency council on homelessness [member] is unable to attend a meeting, that member may appoint a designee to attend and to act on the member's behalf during the meeting."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 2013.)

ACT 77

H.B. NO. 785

A Bill for an Act Relating to Production of Records.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 10H-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established a five-member Native Hawaiian roll commission within the office of Hawaiian affairs for administrative purposes only. The Native Hawaiian roll commission shall be responsible for:

- (1) Preparing and maintaining a roll of qualified Native Hawaiians;
- (2) Certifying that the individuals on the roll of qualified Native Hawaiians meet the definition of qualified Native Hawaiians. For purposes of establishing the roll, a "qualified Native Hawaiian" means an individual ~~[who]~~ whom the commission determines has satisfied the following criteria and who makes a written statement certifying that the individual:
 - (A) Is:
 - (i) An individual who is a descendant of the aboriginal peoples who, prior to 1778, occupied and exercised sovereignty in the Hawaiian islands, the area that now constitutes the State of Hawaii; ~~[or]~~
 - (ii) An individual who is one of the indigenous, native people of Hawaii and who was eligible in 1921 for the programs

- authorized by the Hawaiian Homes Commission Act, 1920, or a direct lineal descendant of that individual; or
- (iii) An individual who meets the ancestry requirements of Kamehameha Schools or of any Hawaiian registry program of the office of Hawaiian affairs;
 - (B) Has maintained a significant cultural, social, or civic connection to the Native Hawaiian community and wishes to participate in the organization of the Native Hawaiian governing entity; and
 - (C) Is eighteen years of age or older; ~~and~~
 - (3) Receiving and maintaining documents that verify ancestry; cultural, social, or civic connection to the Native Hawaiian community; and age from individuals seeking to be included in the roll of qualified Native Hawaiians. Notwithstanding any other law to the contrary, these verification documents shall be confidential[-]; and
 - (4) Notwithstanding any other law to the contrary, including in the roll of qualified Native Hawaiians all individuals already registered with the State as verified Hawaiians or Native Hawaiians through the office of Hawaiian affairs as demonstrated by the production of relevant office of Hawaiian affairs records, and extending to those individuals all rights and recognitions conferred upon other members of the roll."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved May 21, 2013.)

ACT 78

H.B. NO. 800

A Bill for an Act Making an Emergency Appropriation to the Department of Business, Economic Development, and Tourism From the Energy Security Special Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. The Hawaii refinery task force will serve as the principal advisory group to the governor, and to the legislature if so requested, on the market disruptions facing the State associated with changes in the State's refining capacity and ownership and on specific measures, alternatives, and actions the State should consider to maintain adequate and affordable fuel supplies to meet the State's energy needs. With the impending closure of Tesoro Hawaii's Kapolei refinery and the potential closure of Hawaii's remaining Chevron refinery, the task force will help the State plan and prepare for changes in Hawaii's refining capacity.

The department of business, economic development, and tourism has identified the need for an additional \$145,000 from the energy security special fund for fiscal year 2012-2013 to support the task force in assessing these refinery

issues, including funding for coordination and operation of the task force, studies and assessments, and funding for a staff position. A vacancy currently exists within the department's energy division as a result of budget control measures and will be filled immediately to staff the task force. This emergency funding will ensure that the Hawaii refinery task force will be provided with appropriate support to meet its intended purposes in fiscal year 2012-2013.

The purpose of this Act is to appropriate \$145,000 from the energy security special fund for an emergency appropriation for fiscal year 2012-2013 to staff and support the Hawaii refinery task force which is established to assess the impacts to changes in Hawaii's refining capacity and to provide advice and recommendations on matters involving Hawaii's future fuels ecosystem.

SECTION 3. There is appropriated out of the energy security special fund the sum of \$145,000 or so much thereof as may be necessary for fiscal year 2012-2013 for the program on environment and energy development (BED 120) to support the Hawaii refinery task force.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 21, 2013.)

ACT 79

H.B. NO. 816

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (1):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 2,421,855	\$ 8,154,986
Special Funds	\$ 944,392	\$ 3,179,451
G.O. Bond	\$ 5,490	\$ 19,043
Federal Funds	\$ 116,467	\$ 393,520
Trust Funds	\$ 2,220	\$ 7,699
Interdepartmental Transfers	\$ 5,469	\$ 18,534
Revolving	\$ 17,804	\$ 60,764

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 1,328,215	\$ 4,467,034
Special Funds	\$ 116	\$ 390
Federal Funds	\$ 2,268	\$ 7,663

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART II

SECTION 3. There are appropriated or authorized from the sources of funding indicated below to administration (JUD 601) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (1):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 62,495	\$ 212,888

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

PART III

SECTION 5. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 82,218	\$ 277,640
Special Funds	\$ 46,322	\$ 156,800
Federal Funds	\$ 1,770	\$ 6,139
Revolving Funds	\$ 767	\$ 2,659

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 72,044	\$ 242,398
Special Funds	\$ 42,261	\$ 142,714
Federal Funds	\$ 37	\$ 129

SECTION 6. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART IV

SECTION 7. There are appropriated or authorized from the sources of funding indicated below to Hawaii health systems corporation — corporate office (HTH 210) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the collective bargaining cost items in the agreement negotiated for state employees in collective bargaining unit (1) assigned to the Hawaii health systems corporation:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Special Funds	\$ 419,080	\$ 1,424,835

SECTION 8. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

PART V

SECTION 9. There are appropriated or authorized from the sources of funding indicated below to Hawaii health systems corporation — corporate office (HTH 210) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the collective bargaining cost items authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining (1) assigned to the Hawaii health systems corporation:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Special Funds	\$ 11,477	\$ 39,811

SECTION 10. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

PART VI

SECTION 11. There are appropriated or authorized from the sources of funding indicated below to health premium payments - State (BUF 761) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the Hawaii employer-union health benefits trust fund costs in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (1):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 1,342,199	\$ 449,787

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 525,350	\$ 164,245

PART VII

SECTION 12. There are appropriated or authorized from the sources of funding indicated below to health premium payments - State (BUF 761) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the Hawaii employer-union health benefits trust fund costs for state officers and employees excluded from collective bargaining:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 1,527	\$ 1,205

SECTION 13. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART VIII

SECTION 14. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 15. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2014, and June 30, 2015, of the respective fiscal years, shall lapse as of those dates.

SECTION 16. This Act, upon its approval, shall take effect on July 1, 2013.

(Approved May 21, 2013.)

ACT 80

H.B. NO. 820

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (5):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$33,141,215	\$63,020,834
Special Funds	\$ 1,226,743	\$ 2,335,021
Federal Funds	\$ 31,409	\$ 59,658
Interdepartmental Transfers	\$ 5,833	\$ 9,328

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART II

SECTION 3. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees who are excluded from collective bargaining:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 851,736	\$ 1,643,364
Federal Funds	\$ 517,656	\$ 998,961
Trust Funds	\$ 2,515	\$ 4,748
Interdepartmental Transfers	\$ 469	\$ 1,099

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART III

SECTION 5. There are appropriated or authorized from the sources of funding indicated below to the health premium payments - DOE (BUF 765) the following sums, or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015, the Hawaii employer-union health benefits trust fund costs in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (5):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 7,128,713	\$ 5,047,927

SECTION 6. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART IV

SECTION 7. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 8. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2014, and June 30, 2015, of the respective fiscal years, shall lapse as of those dates.

SECTION 9. This Act shall take effect on July 1, 2013.

(Approved May 21, 2013.)

ACT 81

H.B. NO. 833

A Bill for an Act Making Emergency Appropriations for Collective Bargaining Cost Items.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Hawaii state constitution.

PART II

SECTION 2. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal year 2012-2013 all collective bargaining cost items for salary increases

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and other wage-related costs in the arbitrated settlement for collective bargaining unit (10):

	<u>FY 2012-2013</u>
General Funds	\$ 5,111,047
Special Funds	\$ 21,164
Federal Funds	\$ 90,220

Of the above amounts, the following amount is for the department of education:

	<u>FY 2012-2013</u>
General Funds	\$ 54,675

SECTION 3. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART III

SECTION 4. There is appropriated from the source of funding indicated below to administration (JUD 601) the following sum or so much thereof as may be necessary to fund for fiscal year 2012-2013 all collective bargaining cost items for salary increases and other wage-related costs in the arbitrated settlement for collective bargaining unit (10):

	<u>FY 2012-2013</u>
General Funds	\$ 32,479

SECTION 5. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

PART IV

SECTION 6. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal year 2012-2013 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining:

	<u>FY 2012-2013</u>
General Funds	\$ 105,715
Federal Funds	\$ 3,853
Interdepartmental Transfers	\$ 14,483

SECTION 7. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART V

SECTION 8. There is appropriated from the source of funding indicated below to administration (JUD 601) the following sum or so much thereof as may be necessary to fund for fiscal year 2012-2013 the salary increases and other cost

adjustments authorized by chapter 89C, Hawaii Revised Statutes, by the chief justice for state officers and employees excluded from collective bargaining:

	<u>FY 2012-2013</u>
General Funds	\$ 2,395

SECTION 9. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

PART VI

SECTION 10. There are appropriated or authorized from the sources of funding indicated below to Hawaii health systems corporation - corporate office (HTH 210) the following sums or so much thereof as may be necessary to fund for fiscal year 2012-2013 the collective bargaining cost items in the agreement negotiated for state employees in collective bargaining unit (10) assigned to the Hawaii health systems corporation:

	<u>FY 2012-2013</u>
General Funds	\$ 2,207,391
Special Funds	\$ 638,705

PART VII

SECTION 11. There are appropriated or authorized from the sources of funding indicated below to Hawaii health systems corporation - corporate office (HTH 210) the following sums or so much thereof as may be necessary to fund for fiscal year 2012-2013 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining assigned to the Hawaii health systems corporation:

	<u>FY 2012-2013</u>
General Funds	\$ 55,438
Special Funds	\$ 11,112

SECTION 12. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART VIII

SECTION 13. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 14. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2013, shall lapse as of that date.

SECTION 15. This Act shall take effect upon its approval.

(Approved May 21, 2013.)

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 all collective bargaining cost items contained in the agreements negotiated with the exclusive bargaining representative of collective bargaining units (2), (3), and (4):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 12,750,839	\$ 26,504,254
Special Funds	1,622,422	3,351,913
General Obligation		
Bond Funds	349,413	734,885
Federal Funds	1,381,503	2,834,686
Trust Funds	96,396	133,740
Interdepartmental		
Transfers	168,597	356,820
Revolving Funds	201,042	400,827
Other Funds	44,783	95,110

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 6,740,787	\$ 13,873,399
Special Funds	18,277	39,814
General Obligation		
Bond Funds	31,636	67,098
Federal Funds	117,251	247,437
Trust Funds	8,410	17,528
Interdepartmental		
Transfers	1,464	3,162
Revolving Funds	11,021	23,228

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART II

SECTION 3. There are appropriated or authorized from the sources of funding indicated below to administration (JUD 601) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 all collective bargaining cost items contained in the agreements negotiated with the exclusive bargaining representative of collective bargaining units (2), (3), and (4):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 1,357,919	\$ 2,862,139
Special Funds	59,392	123,656

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

PART III

SECTION 5. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within bargaining units (2), (3), or (4), respectively:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 1,256,933	\$ 2,570,249
Special Funds	170,388	386,187
General Obligation		
Bond Funds	18,897	44,527
Federal Funds	583,117	1,193,748
Trust Funds	11,683	19,404
Interdepartmental		
Transfers	1,191	3,640
Revolving Funds	12,090	27,868
Other Funds	6,256	13,743

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 413,410	\$ 803,483
Special Funds	454	1,323
General Obligation		
Bond Funds	189	456
Federal Funds	507,295	1,039,501
Trust Funds	239	321
Revolving Funds	177	414

SECTION 6. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART IV

SECTION 7. There is appropriated from the source of funding indicated below to administration (JUD 601) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within bargaining units (2), (3), or (4), respectively, assigned to the judiciary:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 87,571	\$ 184,289

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SECTION 8. Funds appropriated by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

PART V

SECTION 9. There is appropriated from the source of funding indicated below to Hawaii health systems corporation - corporate office (HTH 210) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the collective bargaining cost items contained in the agreements negotiated for state employees in collective bargaining units (2), (3), or (4), respectively, assigned to the Hawaii health systems corporation:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Special Funds	\$ 1,380,384	\$ 2,960,340

SECTION 10. Funds appropriated by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

PART VI

SECTION 11. There is appropriated from the source of funding indicated below to Hawaii health systems corporation - corporate office (HTH 210) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the collective bargaining cost items authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within bargaining units (2), (3), or (4), respectively, assigned to the Hawaii health systems corporation:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Special Funds	\$ 78,811	\$ 187,457

SECTION 12. Funds appropriated by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

PART VII

SECTION 13. There is appropriated from the source of funding indicated below to health premium payments - state (BUF 761) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the Hawaii employer union health benefits trust fund costs contained in the agreements negotiated with the exclusive bargaining representative of collective bargaining units (2), (3), and (4):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 6,109,551	\$ 3,558,705

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 2,494,740	\$ 1,440,996

PART VIII

SECTION 14. There is appropriated from the source of funding indicated below to health premium payments - state (BUF 761) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the Hawaii employer union health benefits trust fund costs for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within bargaining units (2), (3), or (4), respectively:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 331,923	\$ 223,055

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 56,477	\$ 34,615

SECTION 15. Funds appropriated by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART IX

SECTION 16. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 17. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2014, and June 30, 2015, of the respective fiscal years, shall lapse as of those dates.

SECTION 18. This Act shall take effect on July 1, 2013.

(Approved May 21, 2013.)

ACT 83

S.B. NO. 902

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (8):

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	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 3,572,681	\$ 7,638,152
Special Funds	371,719	796,233
Federal Funds	17,902	38,235
Revolving Funds	85,162	182,307

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART II

SECTION 3. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees in the executive branch who are excluded from collective bargaining and belong to the same compensation plans as those officers and employees within collective bargaining unit (8):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 221,022	\$ 471,162
Special Funds	8,287	17,739

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART III

SECTION 5. There is appropriated from the source of funding indicated below to health premium payments (BUF 761) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the Hawaii employer union health benefits trust fund costs in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (8):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 1,358,261	\$ 868,677

PART IV

SECTION 6. There is appropriated from the source of funding indicated below to health premium payments (BUF 761) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the Hawaii employer union health benefits trust fund costs for state officers and employees in the executive branch who are excluded from collective bargaining and belong to the same compensation plans as those officers and employees within collective bargaining unit (8):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 436,753	\$ 306,104

SECTION 7. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART V

SECTION 8. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 9. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2014, and June 30, 2015, of the respective fiscal years, shall lapse as of those dates.

SECTION 10. This Act, upon its approval, shall take effect on July 1, 2013.

(Approved May 21, 2013.)

ACT 84

S.B. NO. 908

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Hawaii State Constitution.

PART II

SECTION 2. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal year 2012-2013 all collective bargaining cost items for salary increases and other wage related costs contained in the arbitrated settlement for collective bargaining unit (9):

	<u>FY 2012-2013</u>
General Funds	\$ 4,474,338
Special Funds	8,968
Federal Funds	90,464
Internal Transfers	5,180
Revolving Funds	17,205

Of the above amount, the following amount is for the department of education:

	<u>FY 2012-2013</u>
General Funds	\$ 17,334

SECTION 3. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments in the respective fiscal year for expenditure for the purposes of this part.

PART III

SECTION 4. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal year 2012-2013 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees in the executive branch who are excluded from collective bargaining and belong to the same compensation plans as those officers and employees within collective bargaining unit (9):

	<u>FY 2012-2013</u>
General Funds	\$ 73,223
Federal Funds	2,407

SECTION 5. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments in the respective fiscal year for expenditure for the purposes of this part.

PART IV

SECTION 6. There is appropriated from the source of funding indicated below to administration (JUD 601) the following sum or so much thereof as may be necessary to fund for fiscal year 2012-2013 all collective bargaining cost items for salary increases and other wage related costs in the arbitrated settlement for collective bargaining unit (9):

	<u>FY 2012-2013</u>
General Funds	\$ 10,450

SECTION 7. Funds appropriated or authorized by this part shall be allotted by the chief justice in the respective fiscal year for expenditure for the purposes of this part.

PART V

SECTION 8. There is appropriated from the source of funding indicated below to administration (JUD 601) the following sum or so much thereof as may be necessary to fund for fiscal year 2012-2013 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees of the judiciary who are excluded from collective bargaining and belong to the same compensation plans as those officers and employees within collective bargaining unit (9):

	<u>FY 2012-2013</u>
General Funds	\$ 3,652

SECTION 9. Funds appropriated or authorized by this part shall be allotted by the chief justice in the respective fiscal year for expenditure for the purposes of this part.

PART VI

SECTION 10. There are appropriated or authorized from the sources of funding indicated below to Hawaii health systems corporation – corporate office (HTH 210) the following sums or so much thereof as may be necessary to fund for fiscal year 2012-2013 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (9) assigned to the Hawaii health systems corporation:

	<u>FY 2012-2013</u>
General Funds	\$ 3,691,313
Special Funds	4,629,618

SECTION 11. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation in the respective fiscal year for expenditure for the purposes of this part.

PART VII

SECTION 12. There are appropriated or authorized from the sources of funding indicated below to Hawaii health systems corporation – corporate office (HTH 210) the following sums or so much thereof as may be necessary to fund for fiscal year 2012-2013 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees assigned to the Hawaii health systems corporation who are excluded from collective bargaining and belong to the same compensation plans as those officers and employees within collective bargaining unit (9):

	<u>FY 2012-2013</u>
General Funds	\$ 86,668
Special Funds	85,946

SECTION 13. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation in the respective fiscal year for expenditure for the purposes of this part.

PART VIII

SECTION 14. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015 the carryover costs related to implementation of the 8.16% across the board wage increase and catch up step movements for bargaining unit (9) employees, directed in the arbitration award for fiscal biennium 2011-2013:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 6,500,660	\$ 6,500,660
Special Funds	14,203,816	14,203,816
Federal Funds	269,185	269,185
Interdepartmental Transfers	16,096	16,096
Revolving Funds	53,373	53,373

SECTION 15. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART IX

SECTION 16. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary, to fund for fiscal biennium 2013-2015 the carryover costs related to implementation of the 8.16% across the board wage increase and catch up step movements, for state officers and employees in the executive branch excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining unit (9), directed in the arbitration award for fiscal biennium 2011-2013:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$ 94,617	\$ 94,617
Special Funds	242,453	242,453
Federal Funds	8,229	8,229

SECTION 17. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART X

SECTION 18. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 19. Funds appropriated or authorized by parts II to VII of this Act that are not expended or encumbered by June 30, 2013, shall lapse as of that date; provided that funds appropriated or authorized by parts VIII and IX of this Act that are not expended or encumbered by June 30, 2014, and June 30, 2015, of the respective fiscal years, shall lapse as of those dates.

SECTION 20. This Act shall take effect upon its approval; provided that parts VIII and IX shall take effect on July 1, 2013.

(Approved May 21, 2013.)

ACT 85

S.B. NO. 1171

A Bill for an Act Relating to the Review of Historic Preservation Projects.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 6E-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Programmatic agreement” means a document that sets forth the terms of a formal, legally binding agreement and establishes a process for consultation, review, and compliance with federal laws.”

SECTION 2. Section 6E-8, Hawaii Revised Statutes, is amended to read as follows:

“§6E-8 Review of effect of proposed state projects. (a) Before any agency or officer of the State or its political subdivisions commences any project which may affect historic property, aviation artifact, or a burial site, the agency or officer shall advise the department and allow the department an opportunity for review of the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, especially those listed on the Hawaii register of historic places. The proposed project shall not be commenced, or ~~[in the event]~~ if it has already begun, continued, until the department ~~[shall have]~~ has given its written concurrence. If:

(1) The proposed project consists of corridors or large land areas;

(2) Access to properties is restricted; or

(3) Circumstances dictate that construction be done in stages.

the department may give its written concurrence based on a phased review of the project; provided that there shall be a programmatic agreement between the department and the project applicant that identifies each phase and the estimated timelines for each phase.

The department ~~[is to]~~ shall provide written concurrence or non-concurrence within ninety days after the filing of a request with the department. The agency or officer seeking to proceed with the project, or any person, may appeal the department's concurrence or non-concurrence to the Hawaii historic places review board. An agency, officer, or other person who is dissatisfied with the decision of the review board may apply to the governor, ~~[who may request the Hawaii advisory council on historic preservation to report or]~~ who may take action as the governor deems best in overruling or sustaining the department.

(b) The department of Hawaiian home lands, prior to any proposed project relating to lands under its jurisdiction, shall consult with the department regarding the effect of the project upon historic property or a burial site.

(c) The State, its political subdivisions, agencies, and officers shall report to the department the finding of any historic property during any project and shall cooperate with the department in the investigation, recording, preservation, and salvage of the property.

(d) The department shall adopt rules in accordance with chapter 91 to implement this section.”

SECTION 3. Section 6E-42, Hawaii Revised Statutes, is amended to read as follows:

“§6E-42 Review of proposed projects. (a) Before any agency or officer of the State or its political subdivisions approves any project involving a permit, license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, aviation artifacts, or a burial site, the agency or office shall advise the department and prior to any approval allow the department an opportunity for review and comment on the effect of the proposed project on historic properties, aviation artifacts, or burial sites, consistent with section 6E-43, including those listed in the Hawaii register of historic places. If:

(1) The proposed project consists of corridors or large land areas;

(2) Access to properties is restricted; or

(3) Circumstances dictate that construction be done in stages.

the department's review and comment may be based on a phased review of the project; provided that there shall be a programmatic agreement between the de-

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partment and the project applicant that identifies each phase and the estimated timelines for each phase.

(b) The department shall inform the public of any project proposals submitted to it under this section ~~[which] that~~ are not otherwise subject to the requirement of a public hearing or other public notification.

(c) The department shall adopt rules in accordance with chapter 91 to implement this section."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 21, 2013.)

ACT 86

S.B. NO. 1207

A Bill for an Act Relating to Transportation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 266, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§266- Exemption from conservation district permitting and site plan approval requirements. Notwithstanding any law to the contrary, all work involving submerged lands used for state commercial harbor purposes shall be exempt from any permitting and site plan approval requirements established for lands in a conservation district."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 21, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 87

H.B. NO. 114

A Bill for an Act Relating to Higher Education.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. The legislature finds that the prudent and transparent management of public funds appropriated by the legislature and expended by the University of Hawaii is a matter of statewide concern and therefore under the legislature's purview pursuant to article X, section 6, of the Hawaii state constitution.

The purpose of this Act, therefore, is to:

- (1) Repeal the authority of the president of the University of Hawaii to serve as the chief procurement officer for construction contracts and professional services related to construction contracts and to assign those responsibilities to the administrator of the state procurement office; and
- (2) Establish an independent audit committee within the board of regents of the University of Hawaii to assist the board in discharging its constitutional powers and duties with respect to the university.

PART II

SECTION 2. Section 103D-203, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The chief procurement officer for each of the following state entities shall be:

- (1) The judiciary—the administrative director of the courts;
- (2) The senate—the president of the senate;
- (3) The house of representatives—the speaker of the house of representatives;
- (4) The office of Hawaiian affairs—the chairperson of the board;
- (5) The University of Hawaii—the president of the University of Hawaii; provided that, except as specified in section 304A-2672(2), for contracts for construction and professional services furnished by licensees under chapter 464, the administrator of the state procurement office of the department of accounting and general services shall serve as the chief procurement officer;
- (6) The department of education, excluding the Hawaii public library system—the superintendent of education;
- (7) The Hawaii health systems corporation—the chief executive officer of the Hawaii health systems corporation; and
- (8) The remaining departments of the executive branch of the State and all governmental bodies administratively attached to them—the administrator of the state procurement office of the department of accounting and general services.”

SECTION 3. Section 304A-105, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The board of regents shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the powers of the board set forth in section 304A-2672, and the goals of public accountability and public procurement practices, subject to chapter 103D.”

SECTION 4. Section 304A-2672, Hawaii Revised Statutes, is amended to read as follows:

“~~§~~**304A-2672** **Powers of the board.** Notwithstanding any law to the contrary, the board may:

- (1) Designate as a university project, any undertaking, improvement, or facility on any one or more of the areas in one or more of the educational institutions under the jurisdiction of the board;
- (2) Construct and maintain university projects, including a university project included or to be in a university system; provided that all procurements for professional services furnished by licensees under

chapter 464 for construction projects shall be coordinated with the department of accounting and general services on behalf of the board; provided further that the department of accounting and general services shall not be responsible for procurements determined by both the University of Hawaii and the department of accounting and general services to be professional services furnished by licensees under chapter 464 for repair and maintenance;

- (3) Combine two or more university projects into a university system on one or more of the areas on any one or more of the educational institutions under the jurisdiction of the board, and to maintain the system;
- (4) Combine two or more university projects, university systems, or university projects and university systems into a network, on any one or more of the areas on any one or more of the educational institutions under the jurisdiction of the board, and to maintain the network;
- (5) Prescribe and collect rents, fees, and charges for the use of or services furnished by any university project and the facilities thereof, and pledge any appropriation to any university project and the facilities thereof that in aggregate, produces revenue of the university at least sufficient to comply with section 304A-2681;
- (6) With the approval of the governor, issue revenue bonds under this subpart in such principal amount as may be authorized by the legislature from time to time to finance in whole or in part the cost of construction or the cost of maintenance of any university project, including funding reserves therefor;
- (7) Pledge to the punctual payment of revenue bonds and interest thereon, all or any part of the revenue of the university, including any appropriation, in an amount sufficient to pay the revenue bonds and interest as the same become due and to create and maintain reasonable reserves therefor;
- (8) Establish a loan program or a commercial paper program upon terms and conditions that the board may determine; and
- (9) Advance moneys of the university, not otherwise required, and do any and all other lawful acts as may be necessary, convenient, or desirable, for carrying into execution and administering this subpart."

PART III

SECTION 5. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new subpart to part I to be appropriately designated and to read as follows:

" . INDEPENDENT AUDIT COMMITTEE

§304A- Independent audit committee; established; powers; duties. (a) There is established within the board of regents of the University of Hawaii an advisory body to be known as the independent audit committee.

(b) The independent audit committee shall consist of at least three members but not more than five members who shall be appointed by the chairperson of the board of regents, from among the members of the board of regents, except as provided in this subsection. The chair of the independent audit committee shall be selected by and from among its members.

The independent audit committee shall include one or more individuals with financial expertise. If no member of the board of regents has the requisite

skills, the board of regents shall execute other arrangements, which may include the appointment of members of the general public who possess the requisite financial expertise to the independent audit committee to ensure that the independent audit committee has the capacity to carry out its duties.

- (c) The board of regents shall generally:
 - (1) Establish the charter of the independent audit committee and set forth its members' roles and responsibilities;
 - (2) Consider changes to the independent audit committee's charter that are necessary in response to new laws, regulations, and best practices; and
 - (3) Conduct an annual review of the independent audit committee's charter to reassess its adequacy and adopt any proposed and necessary changes to the charter.
- (d) The independent audit committee shall be exempt from chapter 91 and part I of chapter 92 to the extent that the independent audit committee is engaging in discussions or proceedings arising from an investigation by the independent audit committee relating to potentially actionable civil or criminal conduct, whether or not the investigation is pending or outstanding.
- (e) The independent audit committee shall undertake professional development to improve the financial expertise of the independent audit committee as a whole, including:
 - (1) Attendance at seminars and conferences;
 - (2) Attendance at educational sessions including special speakers; and
 - (3) The study of analytical tools for audit committees.
- (f) The independent audit committee shall engage in operations relating to enterprise risk management including:
 - (1) Providing oversight of risk management, which shall include determining overall strategy and influencing the university's risk philosophy;
 - (2) Inquiring of the president of the University of Hawaii, the chief financial officer of the university, and external auditors about significant risks or exposures faced by the university;
 - (3) Assessing steps that the president of the University of Hawaii has taken or proposes to take to minimize those risks to the university and periodically reviewing compliance with those steps; and
 - (4) Reviewing with the general counsel of the University of Hawaii, external auditors, external counsel, and the chief financial officer of the university legal and regulatory matters that, in the opinion of the president of the University of Hawaii, may have a material impact upon the financial statements, related organization compliance policies, and programs and reports received from regulators.
- (g) The independent audit committee shall hold meetings as needed to address matters on its agenda, not less frequently than twice per year. The independent audit committee may request the president of the University of Hawaii or others to attend its meetings or to provide pertinent information as necessary. The board of regents shall provide in the charter of the independent audit committee for the independent audit committee to take action between meetings by unanimous consent.
- (h) The independent audit committee shall review its effectiveness annually and shall prepare, or oversee the preparation of, an annual report to the board of regents.
- (i) The annual report of the independent audit committee shall address other matters affecting the management and organization of the University of Hawaii by engaging in functions, including:

- (1) Reviewing with the president of the University of Hawaii and an external auditor retained pursuant to subsection (r) the effect of any regulatory and accounting initiatives and unique transactions, including relationships with legally separate entities, to determine whether the accounting for those transactions applied best practices;
- (2) Reviewing significant related party transactions;
- (3) Reviewing with the president of the University of Hawaii and the chief financial officer of the university, any interim financial reports or reports on internal control issued with respect to the university since the last meeting of the independent audit committee; and
- (4) Reviewing with an external auditor who performs an audit the following:
 - (A) All critical accounting policies and practices used by the external auditor; provided that:
 - (i) All alternative treatments of financial information within generally accepted accounting principles have been discussed with the president of the University of Hawaii;
 - (ii) The ramifications of each alternative are discussed; and
 - (iii) The treatment preferred by the university is discussed;
 - (B) Any consultation with audit firms other than the external auditor, including the reasons for, and results of, the consultation; and
 - (C) Any other information relating to significant estimates and judgments.
- (j) The independent audit committee shall also review with any external auditor and the chief financial officer of the university matters affecting internal control and an internal audit, including:
 - (1) The adequacy of the University of Hawaii's internal control, including computerized information system controls and security; and
 - (2) Any related significant findings and recommendations of the internal and external auditors, together with the responses of the president of the University of Hawaii.
- (k) The independent audit committee shall also review matters affecting the accounting policies and procedures of the University of Hawaii by:
 - (1) Ensuring that accounting policies, procedures, and related controls are documented and reviewed with the independent audit committee;
 - (2) Reviewing accounting controls annually;
 - (3) Reviewing with the president of the University of Hawaii policies and procedures with respect to officers, key employees, and disqualified persons as defined under section 4958 of the Internal Revenue Code of 1986, as amended; and
 - (4) Inquiring of the president of the University of Hawaii and the chief financial officer regarding the financial health of the university.
- (l) The independent audit committee shall review the University of Hawaii's antifraud programs and controls and aid in discovering and remedying incidences of fraud.
- (m) Notwithstanding part V of chapter 378, the independent audit committee shall review:
 - (1) Procedures for the receipt, retention, and treatment of complaints received by the University of Hawaii regarding accounting, internal accounting controls, auditing matters, or suspected fraud that may be submitted by any party internal or external to the university; and

- (2) As the independent audit committee deems necessary, complaints that may have been received, the current status of such complaints, and the resolution of such complaints, if any resolution has been reached;

provided that any person who makes a complaint covered by this section shall be accorded the same protections as under part V of chapter 378.

(n) With regard to internal control and any internal audit, the independent audit committee shall also:

- (1) Review with any external auditor, the chief financial officer of the university, and the comptroller the audit scope and plan of the internal auditors;
- (2) Address the coordination of audit efforts to ensure the completeness of coverage, reduction of redundant efforts, and the effective use of audit resources; and
- (3) Discuss with the chief financial officer of the university and the external auditor opportunities for reliance by the external auditor on the audit activities of any internal audit.

(o) For internal audits, the independent audit committee shall review the following with the president of the University of Hawaii and the chief financial officer of the university:

- (1) Significant findings of internal audits conducted during the university's previous and current fiscal year and the president's responses;
- (2) Whether internal auditors have encountered difficulties in discharging their responsibilities in the course of their audits, such as any restrictions on the scope of their work or access to required information;
- (3) Any changes required in the scope of internal audits;
- (4) The budget and staffing of internal audit operations;
- (5) An audit plan to govern internal audits; and
- (6) The compliance of internal audits with the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing.

(p) Internal auditors shall meet separately with any external auditor to coordinate audit plans to optimize the ability of the external auditor to rely upon the results of the internal audit team.

(q) The independent audit committee shall annually evaluate the performance of any internal audit, including:

- (1) The adequacy of the audit plan;
- (2) The management of the execution of the audit plan;
- (3) The adequacy of human and other resources available to execute the audit plan;
- (4) The ability of any external auditor to rely upon the internal audit work product in the annual audit performed by an external auditor retained pursuant to subsection (r); and
- (5) The nature of the findings or results of any internal audits.

(r) Subject to approval by the board of regents, the independent audit committee shall select one or more external auditors to be retained by the University of Hawaii. The independent audit committee shall:

- (1) Approve an audit plan;
- (2) Establish the audit fees of any external auditor;
- (3) Pre-approve any non-audit services provided by the external auditor, including tax services, before such services are rendered;
- (4) Review with the president of the University of Hawaii the significance of contracting out audit services; and

- (5) Ensure that single audit obligations are incorporated into an annual audit plan.
- (s) The independent audit committee shall review all material written communications between any external auditor and the president of the University of Hawaii, including any management letter or schedule of unadjusted differences.
- (t) The independent audit committee shall annually evaluate any external auditor; provided that communications with the external auditor in the evaluation shall be done so as to maintain the open flow of communication between the external auditor and the independent audit committee.
- (u) The independent audit committee shall review the following matters relating to any annual audit with the president of the University of Hawaii and any external auditor:
 - (1) The university's annual financial statements and related footnotes;
 - (2) The external auditor's audit of the financial statements and the external auditor's report;
 - (3) The external auditor's judgments about the quality of the university's accounting principles as applied in the university's financial reporting;
 - (4) Any significant changes required in the external auditor's audit plan;
 - (5) Any serious difficulties or disputes with the president of the University of Hawaii encountered during the audit; and
 - (6) Matters to be discussed by the Statement on Auditing Standards No. 114, The Auditor's Communication with those Charged with Governance (AICPA, Professional Standards), related to the conduct of any annual audit.
- (v) The independent audit committee may hire external auditors, legal counsel, or other consultants as necessary, to address any issues arising from:
 - (1) The execution of the whistleblower protection procedures subject to subsection (m);
 - (2) Any statutory or contractual procedures when engaging external resources; and
 - (3) The detection of fraud.
- (w) The independent audit committee shall submit an annual report to the board of regents and the legislature no later than twenty days prior to the convening of each regular session of the legislature on matters that include the following:
 - (1) All instances of material weakness in internal control, including the responses of university management; and
 - (2) All instances of fraud, including the responses of university management."

PART IV

SECTION 6. The administrator of the state procurement office shall submit a report to the legislature, no later than twenty days prior to the convening of the regular session of 2016, of the administrator's findings and recommendations, including any proposed legislation, relating to the transparency, efficiency, and compliance of the University of Hawaii's procurement of construction contracts and construction-related consultant services pursuant to chapter 103D, Hawaii Revised Statutes.

PART V

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 9. This Act shall take effect on July 1, 2013.

(Approved May 31, 2013.)

ACT 88

S.B. NO. 997

A Bill for an Act Relating to Public Archives.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 94, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

“§94- Definitions. For the purposes of this chapter, unless the context clearly indicates otherwise:

“Disposition” means actions resulting in the transfer to the state archives or destruction of records as documented in the records retention and disposition schedule or other authority.

“Enduring value” means the continued significance of records determined by their legal, fiscal, administrative, or historical value that warrants their preservation by the state archives.

“Preservation” means a series of managed activities necessary to protect machine readable records from loss, alteration, deterioration, and technological obsolescence to ensure an accurate rendering of those records in perpetuity in an environment independent from that which produced them.

“Records” means information with fixed form and content, regardless of physical form or characteristics, created or received in the course of government activity and set aside as evidence of that activity. In databases, “records” mean a collection of related data fields.

“Records retention and disposition schedule” means a records disposition authorization (form SA-1) or general records schedule issued by the state comptroller, pursuant to section 94-3.

§94- The state archivist. The department of accounting and general services shall fulfill its responsibilities for the public archives through the state archivist. The state archivist shall:

- (1) Administer the state archives, records management, and digital archives programs and facilities;
- (2) Advise and assist state agencies in the preparation of retention and disposition schedules for government records; and provide records management training and technical assistance services to agencies;
- (3) Issue guidelines and standards, including those applicable to computer hardware and software, for the preservation of government records maintained by state record keeping systems, including digi-

- tal imaging processes for scanning of records and technology for creating and storing electronic records;
- (4) Adopt rules as may be necessary to effectuate the responsibilities established under paragraph (1), and for the acquisition, maintenance, access, and preservation of government records, as well as the use of records or other materials, in the custody of the state archives; and
 - (5) Request and obtain an electronic copy of any government record of enduring value currently in digital format for the digital archives to ensure the long-term preservation of the record.

§94- State archives preservation and long-term access special fund; state archives preservation fee. (a) There shall be established in the state treasury the state archives preservation and long-term access special fund for the preservation of and long-term access to government records.

(b) All revenues collected from fees for services provided by the state archives shall be deposited in the state archives preservation and long-term access special fund and be expended by the comptroller to carry out the purposes of this section, including funding for staff positions and for administrative and operational costs of the program. All interest earned or accrued on moneys deposited in the fund shall become part of the fund.

(c) In addition to any other fee authorized by law, a state archives preservation fee of \$1 shall be assessed for each document that is filed or registered by members of the public with a governmental entity and listed on an authorized records retention and disposition schedule as permanent. The preservation fee shall be collected and deposited in the state archives preservation and long-term access special fund and used to preserve and keep accessible electronic records of such documents in a useable state for the good of the public."

SECTION 2. Section 94-1, Hawaii Revised Statutes, is amended to read as follows:

"§94-1 Duties of department. The department of accounting and general services shall collect all public archives; preserve, arrange, [~~classify~~], describe, and inventory the same; provide for their safekeeping; and compile and furnish information concerning them. The department may adopt and use a seal and may adopt, amend, or revise from time to time such rules and regulations as it may consider expedient for the conduct of its business."

SECTION 3. Section 94-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each public officer, except public officers of the judiciary and the legislative branch of government, having the care and custody of any government records shall submit to the state comptroller a list of records for [~~disposal~~] disposition authorization, which shall include the name of the office, department, or bureau, the [~~subject~~] description of the records for disposal [~~and~~], the inclusive dates of the records[~~;~~], and the retention period. The comptroller shall determine the disposition of the records; stating whether the records should be retained by the office, department, or bureau; be transferred to the [~~public~~] state archives, [~~the University of Hawaii, the Hawaiian Historical Society,~~] or other agency; or be destroyed. The comptroller shall have full power of disposal of all records submitted for this purpose. The [~~records~~] disposition authorization of all records [~~disposed of~~], including lists submitted by the public officers, and the action taken by the comptroller, shall be kept on proper forms, specified by the

comptroller, one copy of which shall be filed in the office, department, or bureau where the records originated, one copy shall be filed in the office of the attorney general, and the original shall be filed in the [public] state archives.”

SECTION 4. Section 94-4, Hawaii Revised Statutes, is amended to read as follows:

“§94-4 **Certificate to same.** The comptroller of the State and the state archivist or other officer performing the duties of state archivist or custodian of the [public] state archives are severally authorized and empowered to certify, as true and correct, copies or reproductions of any of the [books,] documents, papers, writings, or other government records, or excerpts therefrom in their custody. Fees for copying, certification, and other services shall be prescribed by the comptroller in direct relation to the cost of the services.

The above fees shall not be charged where the work involved is required by any department or branch of the federal, state, or county governments.”

SECTION 5. Section 94-2, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 94-6, Hawaii Revised Statutes, is repealed.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 8. This Act shall take effect on July 1, 2013.

(Approved May 31, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 89

H.B. NO. 726

A Bill for an Act Relating to Film and Digital Media Industry Development.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the film industry in Hawaii is an important component of a diversified economy and that its financial impact can be strengthened significantly if existing incentives for the industry are enhanced. The legislature further finds that the motion picture, digital media, and film production income tax credit should be amended to enhance the existing incentives.

The purpose of this Act is to encourage the growth of the film and creative media industries by providing enhanced incentives for film and creative media production.

SECTION 2. Section 235-17, Hawaii Revised Statutes, is amended to read as follows:

“§235-17 **Motion picture, digital media, and film production income tax credit.** (a) Any law to the contrary notwithstanding, there shall be allowed to each taxpayer subject to the taxes imposed by this chapter, an income tax credit [which] that shall be deductible from the taxpayer’s net income tax liability, if

any, imposed by this chapter for the taxable year in which the credit is properly claimed. The amount of the credit shall be:

- (1) ~~[Fifteen]~~ Twenty per cent of the qualified production costs incurred by a qualified production in any county of the State with a population of over seven hundred thousand; or
- (2) ~~[Twenty]~~ Twenty-five per cent of the qualified production costs incurred by a qualified production in any county of the State with a population of seven hundred thousand or less.

A qualified production occurring in more than one county may prorate its expenditures based upon the amounts spent in each county, if the population bases differ enough to change the percentage of tax credit.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for qualified production costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined by rule.

If a deduction is taken under section 179 (with respect to election to expense depreciable business assets) of the Internal Revenue Code of 1986, as amended, no tax credit shall be allowed for those costs for which the deduction is taken.

The basis for eligible property for depreciation of accelerated cost recovery system purposes for state income taxes shall be reduced by the amount of credit allowable and claimed.

(b) The credit allowed under this section shall be claimed against the net income tax liability for the taxable year. For the purposes of this section, "net income tax liability" means net income tax liability reduced by all other credits allowed under this chapter.

(c) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of credits over liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than \$1. All claims, including any amended claims, for tax credits under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

- (d) To qualify for this tax credit, a production shall:
 - (1) Meet the definition of a qualified production specified in subsection (1);
 - (2) Have qualified production costs totaling at least \$200,000;
 - (3) Provide the State, at a minimum, a shared-card, end-title screen credit, where applicable;
 - (4) Provide evidence of reasonable efforts to hire local talent and crew; and
 - (5) Provide evidence of financial or in-kind contributions or educational or workforce development efforts, in partnership with related local industry labor organizations, educational institutions, or both, toward the furtherance of the local film and television and digital media industries.

(e) On or after July 1, 2006, no qualified production cost that has been financed by investments for which a credit was claimed by any taxpayer pursuant to section 235-110.9 is eligible for credits under this section.

(f) To receive the tax credit, the taxpayer shall first prequalify the production for the credit by registering with the department of business, economic development, and tourism during the development or preproduction stage. Fail-

ure to comply with this provision may constitute a waiver of the right to claim the credit.

(g) The director of taxation shall prepare forms as may be necessary to claim a credit under this section. The director may also require the taxpayer to furnish information to ascertain the validity of the claim for credit made under this section and may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

(h) Every taxpayer claiming a tax credit under this section for a qualified production shall, no later than ninety days following the end of each taxable year in which qualified production costs were expended, submit a written, sworn statement to the department of business, economic development, and tourism, identifying:

- (1) All qualified production costs as provided by subsection (a), if any, incurred in the previous taxable year;
- (2) The amount of tax credits claimed pursuant to this section, if any, in the previous taxable year; and
- (3) The number of total hires versus the number of local hires by category [(i.e., department)] and by county.

This information may be reported from the department of business, economic development, and tourism to the legislature in redacted form pursuant to subsection (i)(4).

(i) The department of business, economic development, and tourism shall:

- (1) Maintain records of the names of the taxpayers and qualified productions thereof claiming the tax credits under subsection (a);
- (2) Obtain and total the aggregate amounts of all qualified production costs per qualified production and per qualified production per taxable year; ~~and~~
- (3) Provide a letter to the director of taxation specifying the amount of the tax credit per qualified production for each taxable year that a tax credit is claimed and the cumulative amount of the tax credit for all years claimed[-]; and
- (4) Submit a report to the legislature no later than twenty days prior to the convening of each regular session detailing the non-aggregated qualified production costs that form the basis of the tax credit claims and expenditures, itemized by taxpayer, in a redacted format to preserve the confidentiality of the taxpayers claiming the credit.

Upon each determination required under this subsection, the department of business, economic development, and tourism shall issue a letter to the taxpayer, regarding the qualified production, specifying the qualified production costs and the tax credit amount qualified for in each taxable year a tax credit is claimed. The taxpayer for each qualified production shall file the letter with the taxpayer's tax return for the qualified production to the department of taxation. Notwithstanding the authority of the department of business, economic development, and tourism under this section, the director of taxation may audit and adjust the tax credit amount to conform to the information filed by the taxpayer.

(j) Total tax credits claimed per qualified production shall not exceed ~~[\$8,000,000.]~~ \$15,000,000.

(k) Qualified productions shall comply with subsections (d), (e), (f), and (h).

(l) For the purposes of this section:
"Commercial":

- (1) Means an advertising message that is filmed using film, videotape, or digital media, for dissemination via television broadcast or theatrical distribution;
- (2) Includes a series of advertising messages if all parts are produced at the same time over the course of six consecutive weeks; and
- (3) Does not include an advertising message with Internet-only distribution.

"Digital media" means production methods and platforms directly related to the creation of cinematic imagery and content, specifically using digital means, including but not limited to digital cameras, digital sound equipment, and computers, to be delivered via film, videotape, interactive game platform, or other digital distribution media [~~(excluding Internet-only distribution)~~].

~~["Post-production"]~~ "Post-production" means production activities and services conducted after principal photography is completed, including but not limited to editing, film and video transfers, duplication, transcoding, dubbing, subtitling, credits, closed captioning, audio production, special effects (visual and sound), graphics, and animation.

"Production" means a series of activities that are directly related to the creation of visual and cinematic imagery to be delivered via film, videotape, or digital media and to be sold, distributed, or displayed as entertainment or the advertisement of products for mass public consumption, including but not limited to scripting, casting, set design and construction, transportation, videography, photography, sound recording, interactive game design, and ~~[post-production]~~ post-production.

"Qualified production":

- (1) Means a production, with expenditures in the State, for the total or partial production of a feature-length motion picture, short film, made-for-television movie, commercial, music video, interactive game, television series pilot, single season (up to twenty-two episodes) of a television series regularly filmed in the State (if the number of episodes per single season exceeds twenty-two, additional episodes for the same season shall constitute a separate qualified production), television special, single television episode that is not part of a television series regularly filmed or based in the State, national magazine show, or national talk show. For the purposes of subsections (d) and (j), each of the aforementioned qualified production categories shall constitute separate, individual qualified productions; and
- (2) Does not include: ~~[daily news; public]~~
 - (A) News;
 - (B) Public affairs programs; ~~[non-national]~~
 - (C) Non-national magazine or talk shows; ~~[televised]~~
 - (D) Televised sporting events or activities; ~~[productions]~~
 - (E) Productions that solicit funds; ~~[productions]~~
 - (F) Productions produced primarily for industrial, corporate, institutional, or other private purposes; and ~~[productions]~~
 - (G) Productions that include any material or performance prohibited by chapter 712.

"Qualified production costs" means the costs incurred by a qualified production within the State that are subject to the general excise tax under chapter 237 or income tax under this chapter and that have not been financed by any investments for which a credit was or will be claimed pursuant to section 235-110.9. Qualified production costs include but are not limited to:

- (1) Costs incurred during preproduction such as location scouting and related services;
- (2) Costs of set construction and operations, purchases or rentals of wardrobe, props, accessories, food, office supplies, transportation, equipment, and related services;
- (3) Wages or salaries of cast, crew, and musicians;
- (4) Costs of photography, sound synchronization, lighting, and related services;
- (5) Costs of editing, visual effects, music, other post-production, and related services;
- (6) Rentals and fees for use of local facilities and locations[;], including rentals and fees for use of state and county facilities and locations that are not subject to general excise tax under chapter 237 or income tax under this chapter;
- (7) Rentals of vehicles and lodging for cast and crew;
- (8) Airfare for flights to or from Hawaii, and interisland flights;
- (9) Insurance and bonding;
- (10) Shipping of equipment and supplies to or from Hawaii, and interisland shipments; and
- (11) Other direct production costs specified by the department in consultation with the department of business, economic development, and tourism[;];

provided that any government-imposed fines, penalties, or interest that are incurred by a qualified production within the State shall not be "qualified production costs."

SECTION 3. Act 88, Session Laws of Hawaii 2006, is amended by amending section 4 to read as follows:

"SECTION 4. This Act shall take effect on July 1, 2006; provided that:

- (1) Section 2 of this Act shall apply to qualified production costs incurred on or after July 1, 2006, and before January 1, ~~[2016;]~~ 2019; and
- (2) This Act shall be repealed on January 1, ~~[2016;]~~ 2019, and section 235-17, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act."

SECTION 4. The department of business, economic development, and tourism shall submit an annual report to the legislature no later than twenty days prior to each regular session beginning with the 2014 regular session. The report shall contain a cost benefit analysis of the motion picture, digital media, and film production income tax credit, including but not limited to the following:

- (1) The total number of full-time, part-time, and contract personnel on the payroll necessary to administer the motion picture, digital media, and film production income tax credit; and
- (2) The average wage of each of the above personnel groups and total earnings for the year.

The department of business, economic development, and tourism shall report the data collected pursuant to section 235-17(i)(4), Hawaii Revised Statutes. The legislature may use the information to determine whether the tax credits are meeting the objectives of the motion picture, digital media, and film production income tax credit and this Act.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2013, and apply to taxable years beginning after December 31, 2012.

(Approved May 31, 2013.)

ACT 90

H.B. NO. 775

A Bill for an Act Making Appropriations for Claims Against the State, its Officers, or its Employees.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. The following sums or so much thereof as may be necessary for fiscal year 2012-2013 are appropriated out of the general revenues of the State of Hawaii to the department of the attorney general for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, and entities, for claims against the State or its officers or employees for the overpayment of taxes, or for refunds, reimbursements, payments of judgments or settlements, or other liabilities, in the amounts set forth opposite their names:

**JUDGMENTS AGAINST THE STATE
AND SETTLEMENTS OF CLAIMS:**

AMOUNT

1. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES:

Macy-McCrea v. State of Hawaii, et al.	\$ 30,000.00
Civil No. 10-1-0466-03, First Circuit	Settlement
SUBTOTAL:	\$ 30,000.00

2. DEPARTMENT OF THE ATTORNEY GENERAL:

Mitchell v. State of Hawaii	\$ 95,000.00
FEPA No. 16448; EEOC No. 486-2011-00251	Settlement
SUBTOTAL:	\$ 95,000.00

3. DEPARTMENT OF EDUCATION:

Basa v. State of Hawaii	\$ 30,000.00
Civil No. 10-1-1374-06, First Circuit	Settlement
Bitanga v. State of Hawaii	\$ 18,000.00
Tort Claim	Settlement
Cain, et al. v. State of Hawaii Academy of Arts & Science Charter School	\$ 30,000.00
Civil No. 11-00501, USDC	Settlement
Doe, et al. v. State of Hawaii, et al.	\$5,000,000.00
Civil No. 11-00550, USDC	Settlement
Garner, et al. v. Department of Education	\$15,091,122.33
Civil No. 03-1-000305 KKS, First Circuit	Settlement
Jackson v. State of Hawaii, et al.	\$ 250,000.00
Civil No. 12-1-1004-04, First Circuit	Settlement
Lopes v. Department of Education, et al.	\$ 14,000.00
Civil No. 10-1-1886-08, First Circuit	Settlement

Lum, et al. v. State of Hawaii, et al. Civil No. 11-1-1498-07, First Circuit	\$ 155,000.00 Settlement
Manigo-Brown v. State of Hawaii, et al. Civil No. 11-1-1901-08, First Circuit	\$ 23,396.66 Settlement
Mark H., et al. v. Hamamoto, et al. Civil No. 00-00282 LEK-RLP, USDC	\$3,300,000.00 Settlement
SUBTOTAL:	\$23,911,518.99
4. CAMPAIGN SPENDING COMMISSION:	
Yamada v. Weaver Civil No. 10-00497 JMS-RLP, USDC	\$ 63,852.34 Judgment
SUBTOTAL:	\$ 63,852.34
5. DEPARTMENT OF HEALTH:	
Vendetti, et al. v. Abercrombie, et al. Civil No. 10-1-2084-09, First Circuit	\$ 84,000.00 Settlement
E.P., et al. v. State of Hawaii, et al. Civil No. 10-1-1357-06, First Circuit	\$ 40,000.00 Settlement
SUBTOTAL:	\$ 124,000.00
6. DEPARTMENT OF HUMAN SERVICES:	
J.B. and R.C. v. State of Hawaii, et al. Civil No. 09-1-1157-05, First Circuit	\$ 25,000.00 Settlement
Lopez, et al. v. Kalama, et al. Civil No. 09-1-2021-08, First Circuit	\$ 550,000.00 Settlement
Naki, et al. v. Kalama, et al. Civil No. 10-1-0616-03, First Circuit	
SUBTOTAL:	\$ 575,000.00
7. DEPARTMENT OF LAND AND NATURAL RESOURCES:	
Gentry v. Aila, et al. Civil No. 11-1-0008, Fifth Circuit	\$ 75,000.00 Settlement
SUBTOTAL:	\$ 75,000.00
8. DEPARTMENT OF PUBLIC SAFETY:	
Aliviado, et al. v. Kimoto, et al. Civil No. 12-00259 SOM-BMK, USDC	\$ 86,871.21 Settlement
Butler v. Nouchi, et al. Civil No. 08-00203, USDC	\$ 15,000.00 Settlement
Naehu v. State of Hawaii, et al. Civil No. 09-1-2604-11, First Circuit	\$ 38,579.99 Judgment
Doe Parent, et al. v. State of Hawaii, et al. Civil No. 09-1-2773-11, First Circuit	\$ 20,000.00 Settlement
Gilding v. State of Hawaii Civil No. 08-1-1852-09	\$ 350,000.00 Settlement
Gilchrist v. Kimoto, et al. Civil No. 12-13-00147 SOM-BMK, USDC	\$ 14,000.00
SUBTOTAL:	\$ 524,451.20

ACT 90

9. MISCELLANEOUS CLAIMS:

Susan C. Harrison	\$ 1,738.59
Debra Matthey	\$ 700.00
Gwen Kubo	\$ 3,337.75
Hon Ying Yuen	\$ 600.00
Evelyn Cho	\$ 1,628.33
SUBTOTAL:	\$ 8,004.67
TOTAL (SECTION 1):	\$25,406,827.20

The sums appropriated shall be expended by the department of the attorney general for the purposes of this Act.

PART II

SECTION 2. The following sums or so much thereof as may be necessary for fiscal year 2012-2013 are appropriated out of the state highway fund for the purpose of satisfying claims for legislative relief as to the following named persons, for claims against the State or its officers or employees for payments of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:

AMOUNT

DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION:

Callo, et al. v. State of Hawaii	\$2,100,000.00
Civil No. 05-19782, Second Circuit	Settlement
Douger, et al. v. State of Hawaii	(Consolidated
Civil No. 05-18339, Second Circuit	cases)
Chang v. State of Hawaii, et al.	\$ 15,000.00
Civil No. 12-1-1408-05, First Circuit	Settlement
Delouise v. Werner, et al.	\$ 275,000.00
Civil No. 07-1-0459(1), Second Circuit	Settlement
Dela Cruz v. State of Hawaii, et al.	\$ 35,000.00
Civil No. 06-1-0258, Third Circuit	Settlement
Eager v. State of Hawaii, et al.	\$ 291,078.00
Civil No. 12-1-1408-05, First Circuit	Settlement
Pleasanton v. State of Hawaii	\$ 35,000.00
Civil No. 09-1-2836-12 KTN, First Circuit	Settlement
SUBTOTAL:	\$2,751,078.00
TOTAL (SECTION 2):	\$2,751,078.00

The sums appropriated shall be expended by the department of transportation, highways division, for the purposes of this Act.

PART III

SECTION 3. The following sum or so much thereof as may be necessary for fiscal year 2012-2013 is appropriated out of the harbor special fund for the purpose of satisfying a claim for legislative relief as to the following named person, for a claim against the State or its officers or employees for payment of

a judgment or settlement, or other liability, in the amount set forth opposite the person's name:

**JUDGMENTS AGAINST THE STATE
AND SETTLEMENTS OF CLAIMS:**

AMOUNT

DEPARTMENT OF TRANSPORTATION, HARBORS DIVISION:

Andrade v. State of Hawaii, et al.	\$ 150,000.00
Civil No. 09-1-2959-12, First Circuit	Settlement
SUBTOTAL:	\$ 150,000.00
TOTAL (SECTION 3):	\$ 150,000.00

The sum appropriated shall be expended by the department of transportation, harbors division, for the purposes of this Act.

PART IV

SECTION 4. The sums hereinabove may be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in several amounts hereinabove set forth or in lesser amounts deemed appropriate, upon checks issued by the comptroller; provided departments shall obtain the approval of the attorney general before payment of any claim can be made.

SECTION 5. Notwithstanding the sums hereinabove stated as interest upon judgments against the State, payment of interest shall be limited to the period from the date of judgment, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which the statute applies.

SECTION 6. All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, 2014, shall lapse.

SECTION 7. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 31, 2013.)

ACT 91

H.B. NO. 908

A Bill for an Act Relating to the Hawaii Home Visiting Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. On March 23, 2010, President Barack Obama signed into law the Patient Protection and Affordable Care Act of 2010, also known as the Affordable Care Act (P.L. 111-148). The Affordable Care Act added section 511 to title V of the Social Security Act to create the Maternal, Infant, and Early Childhood Home Visiting Grant program to support development and imple-

mentation of evidence-based home visiting program models by states and other eligible entities.

Home visiting is a prevention strategy used by states and communities to improve the health and well-being of women, children, and families at risk for adverse health and safety concerns, including child abuse and neglect. Early investments in home visiting programs have been shown to reduce costs associated with foster care placements, hospitalizations, emergency room visits, unintended pregnancies, and other more costly outcomes and interventions.

The purpose of this Act is to establish a program within the department of health for hospital-based screening and home visiting services for newborns' families. Establishment of Hawaii's home visiting program will position the department of health to participate in the federal grant program, and thereby improve the health and safety of eligible families.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part XXV to be appropriately designated and to read as follows:

"§321- Hawaii home visiting program; established. (a) There is established within the department of health the Hawaii home visiting program, which shall be responsible for statewide hospital-based screening and home visiting services to identify families of newborns at risk for poor health and safety outcomes, including child abuse and neglect, to promote healthy child development and strengthen families.

(b) Within the limits of available funds, the hospital-based screening and home visiting services program shall:

- (1) Provide proactive, universal screening of newborns' families, using one or more screening tools validated for identifying levels of risk for poor health and safety outcomes and child abuse and neglect as designated by the department of health;
- (2) Refer high-risk families to Hawaii home visiting program providers who shall employ evidence-based models of service; and
- (3) Consider as a high priority, families at risk for poor health outcomes, child abuse, or neglect."

SECTION 3. There is appropriated out of the Hawaii tobacco settlement special fund of the State of Hawaii the sum of \$3,000,000 or so much thereof as may be necessary for fiscal year 2012-2013 to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on June 30, 2013.

• (Approved May 31, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 92

S.B. NO. 1070

A Bill for an Act Relating to Mortgage Servicers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 454M, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§454M- Investigation and examination authority. (a) In addition to any other authority under this chapter, the commissioner shall have the authority to conduct investigations and examinations in accordance with this section. The commissioner may access, receive, and use any books, accounts, records, files, documents, information, or evidence that the commissioner deems relevant to the inquiry or investigation, regardless of the location, possession, control, or custody of the documents, information, or evidence.

(b) For the purposes of investigating violations or complaints arising under this chapter, or for the purposes of examination, the commissioner may review, investigate, or examine any licensee or person subject to this chapter, as often as necessary to carry out the purposes of this chapter. The commissioner may direct, subpoena, or order the attendance of, and examine under oath, all persons whose testimony may be required about loans or the business or subject matter of any examination or investigation and may direct, subpoena, or order the person to produce books, accounts, records, files, and any other documents the commissioner deems relevant to the inquiry.

(c) Each licensee or person subject to this chapter shall provide to the commissioner upon request the books and records relating to the operations of the licensee or person subject to this chapter. The commissioner shall have access to the books and records and shall be permitted to interview the officers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensed mortgage loan originator or person subject to this chapter concerning their business.

(d) Each licensee or person subject to this chapter shall make or compile reports or prepare other information as directed by the commissioner in order to carry out the purposes of this section, including:

- (1) Accounting compilations;
- (2) Information lists and data concerning loan transactions in a format prescribed by the commissioner; or
- (3) Other information that the commissioner deems necessary to carry out the purposes of this section.

(e) In conducting any examination or investigation authorized by this chapter, the commissioner may control access to any documents and records of the licensee or person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records. During the period of control, no person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the documents or records of the licensee or person under examination or investigation have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of this chapter, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

(f) To carry out the purposes of this chapter, the commissioner may:

- (1) Retain accountants or other professionals and specialists, who may be exempt from chapter 76, as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;
- (2) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this section;
- (3) Use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the licensee or person subject to this chapter;
- (4) Accept and rely on examination or investigation reports made by other government officials, within or without this State; and
- (5) Accept audit reports made by an independent certified public accountant for the licensee or person subject to this chapter in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the commissioner.

(g) The authority of this section shall remain in effect, whether a licensee or person subject to this chapter acts or claims to act under any licensing or registration law of this State, or claims to act without such authority.

(h) No licensee or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

(i) The commissioner may charge an examination or investigation fee, payable to the commissioner, based upon the cost per hour per examiner for all licensees and persons subject to this chapter examined or investigated by the commissioner or the commissioner's staff. The hourly fee shall be \$60 or an amount as the commissioner shall establish by rule pursuant to chapter 91. In addition to the examination or investigation fee, the commissioner may charge any person who is examined or investigated by the commissioner or the commissioner's staff pursuant to this section additional amounts for travel, per diem, mileage, and other reasonable expenses incurred in connection with the examination or investigation, payable to the commissioner.

(j) Any person having reason to believe that this chapter or the rules adopted pursuant thereto have been violated, or that a license issued under this chapter should be suspended or revoked, may file a written complaint with the commissioner setting forth the details of the alleged violation or grounds for suspension or revocation."

SECTION 2. Section 454M-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:
"NMLS" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the state licensing and registration of state-licensed loan originators and other financial services providers, or any system provided by the Consumer Financial Protection Bureau."

2. By deleting the definition of "Nationwide Mortgage Licensing System".

~~["Nationwide Mortgage Licensing System" has the same meaning as defined in section 454F-1.]~~

SECTION 3. Section 454M-4, Hawaii Revised Statutes, is amended by amending subsections (a), (b), (c), and (d) to read as follows:

“(a) An applicant for licensure shall file an application on a form prescribed by ~~[the Nationwide Mortgage Licensing System]~~ NMLS or by the commissioner and shall pay an application fee of ~~[\$500.]~~ \$675. Each license shall expire on June 30 of each calendar year. A license may be renewed by filing a renewal statement on a form prescribed by ~~[the Nationwide Mortgage Licensing System]~~ NMLS or by the commissioner and paying a renewal fee of ~~[\$250, on or before July 1]~~ \$425, at least four weeks prior to the renewal period for licensure for the following year.

(b) To fulfill the purposes of this chapter, the commissioner may establish relationships or contracts with ~~[the Nationwide Mortgage Licensing System]~~ NMLS or other entities designated by ~~[the Nationwide Mortgage Licensing System]~~ NMLS to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter.

(c) To the extent reasonably necessary to participate in ~~[the Nationwide Mortgage Licensing System]~~ NMLS, the commissioner may modify any or all of the requirements of ~~[section 454M-4(e) and (f)]~~ subsections (e) and (f).

(d) The commissioner may use ~~[the Nationwide Mortgage Licensing System]~~ NMLS as an agent for requesting information from and distributing information to the United States Department of Justice, any governmental agency, or any other source, as directed by the commissioner.”

SECTION 4. Section 454M-4.5, Hawaii Revised Statutes, is amended to read as follows:

“[§454M-4.5]] Registration with ~~[Nationwide Mortgage Licensing System]~~ NMLS. The commissioner may require all mortgage servicers to register with ~~[the Nationwide Mortgage Licensing System]~~ NMLS.”

SECTION 5. Section 454M-8, Hawaii Revised Statutes, is amended to read as follows:

“[§454M-8]] Powers of commissioner. In addition to any other acts or conditions provided by law, the commissioner may:

- (1) Adopt, amend, or repeal rules, issue declaratory rulings or informal nonbinding interpretations, and investigate and act upon written consumer complaints;
- (2) Grant, deny, forfeit, renew, reinstate, or restore the license of any mortgage servicer;
- (3) Revoke, suspend, or otherwise limit the license of any mortgage servicer for any violation of the provisions in this chapter, or any rule or order of, or agreement with the commissioner;
- (4) Report any violation of this chapter or violation of federal or state law to the ~~[United States Commissioner of Housing and Urban Development]~~ Consumer Financial Protection Bureau or other federal agency having jurisdiction over the licensee;
- (5) Investigate and conduct hearings regarding any violation of this chapter, or any rule or order of or agreement with the commissioner; and
- (6) Do any and all things necessary or incidental to the exercise of the commissioner's power and duties, including the authority to conduct contested case proceedings under chapter 91.”

SECTION 6. A mortgage servicer who holds a license that is valid as of June 30, 2013, shall be determined to be in compliance with the licensing provisions of chapter 454M, Hawaii Revised Statutes, as amended by this Act, until December 31, 2013.

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 9. This Act shall take effect upon its approval.

(Approved May 31, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 93

S.B. NO. 1206

A Bill for an Act Relating to Tax Collection.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 231-13, Hawaii Revised Statutes, is amended to read as follows:

“§231-13 Director; examination, investigation, and collection. (a) The director of taxation shall be responsible for the collection and general administration of all taxes, including delinquent taxes. Notwithstanding any other law to the contrary, the director, by contract, may select and retain bonded collection agencies, licensed attorneys, accountants, and auditors or other persons for the purpose of assessment, enforcement, or collection of taxes from persons subject to the provisions of title 14 administered by the department.

(b) At the option of the director, any contract entered into under this section may provide for compensation on:

- (1) A fixed price basis;
- (2) An hourly rate basis with or without a fixed cap; or
- (3) A contingent fee arrangement to be specified in the contract; provided that this paragraph shall not apply to auditors and accountants.

All compensation shall be payable out of the taxes recovered for the State or from the ~~[debtor]~~ taxpayer in accordance with the terms of, and up to the amount authorized by the contract, unless otherwise determined by the director.”

SECTION 2. (a) The director of taxation shall submit a report to the legislature regarding any contract entered into under section 231-13, Hawaii Revised Statutes, as amended by this Act, during the period beginning on the effective date of this Act and ending on June 30, 2017, for the assessment, enforcement, or collection of taxes. All reports under this subsection shall be submitted to the legislature within fourteen days after the contract is entered into.

(b) The director of taxation shall submit an annual report of all contracts entered into under section 231-13, Hawaii Revised Statutes, as amended by this Act, during the one-year period ending on November 30 of each year for the assessment, enforcement, or collection of taxes. Annual reports under this subsection shall be submitted to the legislature no later than twenty days prior to the convening of each regular session of the legislature, beginning with the regular session of 2014 and ending with the regular session of 2017.

(c) All reports submitted to the legislature pursuant to this section shall include the following information regarding contracts under section 231-13, Hawaii Revised Statutes, as amended by this Act:

- (1) The purpose and scope of the contract;
- (2) The terms of the contract; and
- (3) The cost of the contract;

provided that annual reports submitted pursuant to subsection (b) shall also include a summary and analysis of the effect of this Act to date on the assessment, enforcement, and collection of taxes.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that on June 30, 2017, this Act shall be repealed and section 231-13, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day immediately prior to the effective date of this Act.

(Approved May 31, 2013.)

ACT 94

S.B. NO. 856

A Bill for an Act Relating to Holidays.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Ten weeks after the bombing of Pearl Harbor, on February 19, 1942, President Franklin D. Roosevelt issued Executive Order 9066 authorizing the removal of any or all individuals from military areas as deemed necessary and desirable and mandating the forced internment of Americans of Japanese ancestry. In turn, the military defined Hawaii and the entire west coast of the United States as a military area, resulting in the relocation of more than one hundred ten thousand Americans of Japanese ancestry to remote internment camps built by the United States military in scattered locations around the nation.

One month later, on March 21, 1942, the United States Congress passed Public Law 77-503, which established penalties for violations of Executive Order 9066.

In 1980, the actions of the United States government, including the internment of Americans of Japanese ancestry during World War II, were reviewed by the United States Commission on Wartime Relocation and Internment of Civilians. The Commission concluded in June 1983 that the decision to remove persons of Japanese ancestry to United States prison camps occurred because of "race prejudice, war hysteria, and a failure of political leadership."

It should be noted, however, that several Americans of Japanese ancestry challenged the validity and constitutionality of Executive Order 9066 and Public Law 77-503.

Fred Korematsu, a Japanese-American, was living on the west coast of the United States during World War II, when he was arrested and convicted of defying government orders to report to an internment camp. He appealed and lost his case at the United States Supreme Court, which ruled his incarceration was warranted. Forty-one years later, on November 10, 1983, United States District Court Judge Marilyn Hall Patel vacated Korematsu's conviction, an action considered pivotal in civil-rights history.

Born in 1918 in Washington state to Japanese parents who had immigrated to the United States, Gordon Hirabayashi was charged by a federal grand jury in Seattle with violation of Public Law 77-503. He appealed his case to the United States Supreme Court in the first challenge to Executive Order 9066 but lost his appeal when the Supreme Court unanimously ruled to uphold Mr. Hirabayashi's conviction for violating the Executive Order. Forty-four years later, in September 1987, his conviction was vacated.

Min Yasui was born in October 1916 in Oregon to Japanese parents and was commissioned as a second lieutenant in the Army Infantry Reserve. Although receiving orders to report to Fort Vancouver in Portland, Mr. Yasui was told that he was unacceptable for service and was immediately ordered off the base. Mr. Yasui was turned away eight more times after offering to fulfill his service to his country. On March 28, 1942, Mr. Yasui directly challenged the constitutionality of Executive Order 9066 and was arrested. Although his case was appealed to the United States Supreme Court, the Supreme Court upheld the conviction of Mr. Yasui for violating Executive Order 9066. Forty-two years later, in 1984, the courts vacated Mr. Yasui's conviction.

A native of Sacramento, California, Mitsuye Endo was the only female resister of Executive Order 9066. Ms. Endo's case reached the United States Supreme Court and was the only internment case in which the Supreme Court ruled unanimously in favor of the plaintiff. Ms. Endo's petition before the Supreme Court forced federal authorities to re-examine the constitutionality of Executive Order 9066 and ultimately resulted in a decision by the Supreme Court that officially re-opened the west coast of the United States for resettlement by Americans of Japanese ancestry.

The purpose of this Act is to establish a day, each year, to recognize the actions of individuals who fought for the constitutional and civil rights of all Americans, particularly those of Japanese ancestry, and the pivotal role they played in the history of the United States.

SECTION 2. Chapter 8, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§8- Civil Liberties and the Constitution Day. January 30 shall be known and designated as "Civil Liberties and the Constitution Day" to celebrate, honor, and encourage public education and awareness of the commitment of individuals to preserving civil liberties for Americans of Japanese ancestry and actions to promote equal rights for all citizens. This day is not and shall not be construed to be a state holiday."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 7, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 95

S.B. NO. 890

A Bill for an Act Relating to the Hawaii Labor Relations Board.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 89-5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Any action taken by the board shall be by a simple majority of the members of the board. All decisions of the board shall be reduced to writing and shall state separately its finding of fact and conclusions. Any vacancy in the board shall not impair the authority of the remaining members to exercise all the powers of the board. The governor may appoint an acting member of the board during the temporary absence from the State ~~[or the]~~ temporary inability to act due to recusal, or illness of any regular member. An acting member, during the acting member’s term of service, shall have the same powers and duties as the regular member~~[-];~~ provided that:

- (1) If the regular member is the representative of management or labor, then employee organizations representing public employees may submit to the governor for consideration names of persons to serve as an acting member and the governor shall first consider these persons in selecting an acting member;
- (2) If the regular member is the representative of management, then public employers may submit to the governor for consideration names of persons to serve as an acting member and the governor shall first consider these persons in selecting an acting member;
- (3) Subsection (d) shall not apply to an acting member; and
- (4) An acting member appointed due to a regular member’s recusal shall be appointed for the case in which the recusal occurred, and the acting member’s appointment shall terminate when the final decision is filed or the case is withdrawn.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 2013.)

ACT 96

S.B. NO. 877

A Bill for an Act Relating to Occupational Safety and Health Hearings.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 396, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§396- Appeals board.** (a) In any hearing conducted by the appeals board under this chapter and pursuant to chapter 91, notwithstanding section 91-9.5, all parties shall be given written notice of hearing by first class mail at least fifteen days before the hearing.

(b) In all hearings before the appeals board, each board member shall have the same powers as possessed by the circuit courts respecting the admin-

istering of oaths; issuing subpoenas; compelling the attendance of witnesses, the production of documentary evidence, and the taking of depositions; and examining or causing to be examined witnesses. The circuit court of any circuit, upon application by the appeals board or a party, shall have power to enforce, by proper proceedings, the attendance and testimony of any witness subpoenaed. Subpoena and witness fees and mileage in these cases shall be the same as in criminal cases in the circuit courts and paid by the party calling the witness.

No person shall be excused from attending, testifying, or producing material, books, paper, correspondence, memoranda, and other records before the appeals board or in compliance with a subpoena on the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture; provided that no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after having claimed the privilege against self-incrimination, to testify or produce evidence, documentary, or otherwise, except that such persons testifying shall not be exempt from prosecution and punishment for perjury committed in testifying.

Pursuant to chapter 91, the appeals board may adopt rules of the Hawaii rules of civil procedure and other rules in conducting any hearing.

(c) Contemptuous conduct at any hearing shall be grounds for summary exclusion from the hearing. Such misconduct, if of an aggravating character and engaged in by an attorney or other representative of a party, shall be grounds for suspension or disbarment from further practice before the appeals board after due notice and hearing. The appeals board may impose other sanctions for contemptuous conduct, including dismissal of the appeal. Any action taken by the appeals board shall be by a simple majority.

(d) As used in this section, "contemptuous conduct" includes the following conduct by a person appearing before the appeals board:

- (1) Failure or refusal to appear in compliance with a subpoena or, having appeared, failure or refusal to testify under oath or affirmation;
- (2) Failure or refusal to answer any relevant question or failure or refusal to furnish any relevant book, paper, or other document subpoenaed by or on behalf of the appeals board; and
- (3) The commission of any other act that is disrespectful or interferes with the administration of justice."

SECTION 2. Section 396-3, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"“Aggravating character” means circumstances and behavior that increase the seriousness or outrageousness of contemptuous conduct.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 97

H.B. NO. 152

A Bill for an Act Relating to Workers' Compensation Medical Fee Schedules.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Finding and purpose. The legislature finds that a process currently exists under section 386-21(c), Hawaii Revised Statutes, for the administrative adjustment of the workers' compensation medical fee schedule by the director of labor and industrial relations.

The purpose of this Act is to:

- (1) Require the auditor to assist the director of labor and industrial relations in the exercise of administrative authority by:
 - (A) Identifying:
 - (i) The medical or health care services or procedures for which fee adjustments are necessary to ensure that injured employees have better access to treatment; and
 - (ii) A methodology for conducting the statistically valid surveys of prevailing charges that are necessary for adjustment of the fees; and
 - (B) Recommending adjusted fees to the director after applying the methodology;
- (2) Make available to the director a limited opportunity to expedite the adjustment of fees identified by the auditor; and
- (3) Require the auditor to recommend to the director and legislature a formalized process for the mandatory periodic review of the adequacy of the medical fee schedule.

SECTION 2. Identification of fees for services or procedures that impede obtaining treatment. (a) After consulting with the director of labor and industrial relations and representatives of relevant entities, the auditor shall identify the medical or health care services or procedures for which the fees:

- (1) Are a significant impediment to injured employees obtaining treatment from providers of those services or procedures; and
- (2) Require adjustment to ensure that injured employees are able to obtain adequate access to treatment from those providers.

The auditor shall list the services or procedures by priority, with higher priority being assigned to those services or procedures that are most difficult for injured employees to obtain treatment.

(b) After the required consultation with the director of labor and industrial relations and representatives of relevant entities, the auditor shall have the exclusive discretion to identify the services or procedures pursuant to subsection (a).

SECTION 3. Establishment of methodology for prevailing charges survey.

(a) After identification of the medical or health care services and procedures for which fee adjustments are found to be necessary pursuant to section 2, and upon further consultation with the director of labor and industrial relations and representatives of relevant entities, the auditor shall establish a methodology for the statistically valid survey of prevailing charges necessary for the adjustment of those fees in accordance with section 386-21(c), Hawaii Revised Statutes.

(b) After the required consultation with the director of labor and industrial relations and representatives of relevant entities, the auditor shall have the exclusive discretion to establish the methodology under subsection (a).

SECTION 4. Use of methodology for recommendation of fee adjustments. (a) After establishing the survey methodology, the auditor shall conduct the survey of prevailing charges for the services and procedures for which fee adjustments are found to be necessary and shall recommend the appropriate fee adjustment based upon the survey results. The recommendation shall be made in accordance with the requirements of section 386-21(c), Hawaii Revised Statutes.

If the auditor does not have sufficient resources to review all fees identified by the auditor as requiring adjustment, the auditor shall conduct the survey for, and recommend the adjustment of, the fees for procedures or services of higher priority until resources are exhausted.

(b) The auditor shall transmit the recommendations to the director of labor and industrial relations no later than June 1, 2014.

SECTION 5. Administrative adjustment of fees; expedited process. (a) From June 1, 2014, the director of labor and industrial relations may take action in accordance with section 386-21(c), Hawaii Revised Statutes, to adjust the fees for medical or health services or procedures identified by the auditor as requiring adjustment; provided that the director may use the results of the survey by the auditor to make an adjustment of a fee and, for that adjustment, shall not be required to conduct the director's own survey of prevailing charges. The director shall have the discretion to adjust the fee to the amount recommended by the auditor or another amount deemed necessary by the director.

If the director does not have sufficient resources to adjust all fees for services or procedures identified by the auditor, the director shall adjust the fees for procedures or services of higher priority, as identified by the auditor, until resources are exhausted.

(b) Until January 1, 2015, the director may adjust the fees identified by the auditor as requiring adjustment without necessity of complying with the rule adoption procedures under chapter 91, Hawaii Revised Statutes; provided that, if the director uses this authority, the director shall hold at least one public hearing, with at least six days of public notice, in each county before final approval of any adjustment.

(c) If the director does not adjust a fee for a service or procedure pursuant to subsection (b) by January 1, 2015, the authority under that subsection shall not be available to the director after that date.

(d) The authority of subsection (b) shall not apply to the adjustment of any fee that has not been identified by the auditor pursuant to section 2 as requiring adjustment.

(e) Nothing in this Act shall require the director of labor and industrial relations to adjust the fee for every service or procedure identified by the auditor. The director shall have the discretion to reject the adjustment of any fee.

SECTION 6. Consultation with representatives of relevant entities. In order to fulfill the requirements of this Act to consult with representatives of relevant entities, the auditor shall have the exclusive discretion to identify the entities and their representatives who shall be consulted. The auditor may consult with the representatives of those entities in private or at a public informational meeting.

No person or entity, except the director of labor and industrial relations, shall have a right to be consulted by the auditor or be aggrieved by the lack of consultation.

No person or entity shall have a cause of action to invalidate the auditor's identification of services or procedures for which fee adjustment is necessary, or the establishment of the survey methodology; provided that the director of

labor of industrial relations shall have such a cause of action if the auditor fails to consult with the director.

SECTION 7. Recommendation of process for mandatory periodic review of medical fee schedule. In addition to the requirements under sections 2, 3, and 4, the auditor shall recommend a formalized process for the mandatory periodic review by the director of labor and industrial relations of the medical fee schedule or certain fees in the schedule. The purpose of the process shall be to ensure the periodic assessment of the sufficiency of the fees for injured employees to obtain treatment.

The auditor shall submit the recommendation for mandatory periodic review of the adequacy of the medical fee schedule to the legislature and director of labor and industrial relations by January 1, 2014.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the auditor to:

- (1) Assist the director of labor and industrial relations in adjusting the workers' compensation medical fee schedule for services or procedures for which the fees are identified as requiring adjustment;
- (2) Make available to the director of labor and industrial relations a limited opportunity to expedite the adjustment of fees identified by the auditor; and
- (3) Recommend a formalized process for the mandatory periodic review of the adequacy of the medical fee schedule.

The sum appropriated shall be expended by the auditor for the purposes of this Act.

SECTION 9. This Act shall take effect on July 1, 2013.

(Approved June 14, 2013.)

ACT 98

H.B. NO. 924

A Bill for an Act Relating to Collective Bargaining.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 89, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§89- Hearing notice. Notwithstanding section 91-9.5, in any hearing conducted by the board, all parties shall be given written notice of the hearing by first class mail at least fifteen days before the scheduled date of the hearing.”

SECTION 2. Section 89-9, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The employer and the exclusive representative shall meet at reasonable times, including meetings sufficiently in advance of the February 1 impasse date under section 89-11, and shall negotiate in good faith with respect to wages, hours, the amounts of contributions by the State and respective counties to the Hawaii employer-union health benefits trust fund to the extent allowed in subsection (e), and other terms and conditions of employment which are subject

to collective bargaining and which are to be embodied in a written agreement as specified in section 89-10, but such obligation does not compel either party to agree to a proposal or make a concession[; provided that the parties may not negotiate with respect to cost items as defined by section 89-2 for the biennium 1999 to 2001, and the cost items of employees in bargaining units under section 89-6 in effect on June 30, 1999, shall remain in effect until July 1, 2001].”

2. By amending subsection (e) to read:

“(e) Negotiations relating to contributions to the Hawaii employer-union health benefits trust fund shall be for the purpose of agreeing upon the amounts which the State and counties shall contribute under section [87-4,] 87A-32, toward the payment of the costs for a health benefits plan, as defined in section [87-1(8),] 87A-1, and group life insurance benefits, and the parties shall not be bound by the amounts contributed under prior agreements; provided that section 89-11 for the resolution of disputes by way of arbitration shall not be available to resolve impasses or disputes relating to the amounts the State and counties shall contribute to the Hawaii employer-union health benefits trust fund.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 99

H.B. NO. 749

A Bill for an Act Relating to Workforce Development.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii State Planning Act, chapter 226, Hawaii Revised Statutes, declares that it shall be the policy of the State to promote economically competitive activities that increase Hawaii’s agricultural self-sufficiency and to increase the attractiveness and opportunities for an agricultural education and livelihood.

The legislature finds that to ensure Hawaii’s agricultural self-sufficiency, it is critical to create a workforce development plan that will:

- (1) Introduce Hawaii’s youth to agriculture-related activities that will promote an interest and aptitude in agricultural sustainability;
- (2) Engage in an ongoing effort to promote the development of future leaders in the agricultural sector who will have a vision for the future of Hawaii in all sectors of the agriculture industry and its related fields;
- (3) Identify available opportunities for future workforce participants to engage in and further their training to prepare to become members of the agricultural workforce; and
- (4) Develop a seamless Hawaii P-20 program to transition future agricultural workforce participants into the workforce.

SECTION 2. Chapter 371, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§371- Hawaii agriculture workforce advisory board; established. (a) There is created within the department, for administrative purposes only, the Hawaii agriculture workforce advisory board, which shall include the following members or their designees:

- (1) The director;
- (2) The chairperson of the board of agriculture;
- (3) The superintendent of education;
- (4) The dean of the college of tropical agriculture and human resources at the University of Hawaii at Manoa;
- (5) The dean of the college of agriculture, forestry, and natural resource management at the University of Hawaii at Hilo;
- (6) A chancellor of a community college within the University of Hawaii system, selected by the other members of the Hawaii agriculture workforce advisory board;
- (7) The president of the Hawaii Farm Bureau Federation; and
- (8) A representative from the farming community, for a term of two years, to be selected by the chairperson of the board of agriculture.

Section 26-34 shall not apply to the Hawaii agriculture workforce advisory board. The director shall serve as the chairperson of the Hawaii agriculture workforce advisory board.

(b) The Hawaii agriculture workforce advisory board shall advise the department on the following matters:

- (1) Developing the next generation of the agriculture industry workforce in the State;
- (2) Developing the mission, direction, and goals of the Hawaii agriculture workforce advisory board;
- (3) Developing partnerships with agricultural organizations and stakeholders to further the Hawaii agriculture workforce advisory board’s mission and objectives;
- (4) Maintaining and supporting the National Future Farmers of America Organization within the State; and
- (5) Recommending projects and programs to promote the expansion and development of the agricultural industry in the State.

(c) The Hawaii agriculture workforce advisory board members shall serve without compensation; provided that the representative from the farming community shall be reimbursed for necessary expenses incurred during the performance of the representative’s duties.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Certain Funds Under the Department of Labor and Industrial Relations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that certain funds in the department of labor and industrial relations are classified and operated incongruently from their statutory designations. According to the state auditor's report no. 12-10, issued on December 7, 2012, the confusion in classifying funds may be due to the inconsistency between the name given to the fund by the statute that establishes it; the definitions provided by the department of accounting and general services; and the definitions of special, revolving, and trust funds contained in the Hawaii Revised Statutes.

The purpose of this Act is to clarify the classification of four funds of the department of labor and industrial relations as trust funds as recommended by the state auditor.

SECTION 2. Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees' retirement system created by section 88-109;
- ~~[(11) Unemployment compensation fund established under section 383-121;~~
- ~~[(12)]~~ (11) Hawaii hurricane relief fund established under chapter 431P;
- ~~[(13)]~~ (12) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- ~~[(14)]~~ (13) Tourism special fund established under section 201B-11;
- ~~[(15)]~~ (14) Universal service fund established under section 269-42;
- ~~[(16)]~~ (15) Emergency and budget reserve fund under section 328L-3;
- ~~[(17)]~~ (16) Public schools special fees and charges fund under section 302A-1130;
- ~~[(18)]~~ (17) Sport fish special fund under section 187A-9.5;
- ~~[(19)]~~ (18) Glass advance disposal fee established by section 342G-82;
- ~~[(20)]~~ (19) Center for nursing special fund under section 304A-2163;
- ~~[(21)]~~ (20) Passenger facility charge special fund established by section 261-5.5;
- ~~[(22)]~~ (21) Court interpreting services revolving fund under section 607-1.5;

- ~~[(23)]~~ ~~(22)~~ Hawaii cancer research special fund;
- ~~[(24)]~~ ~~(23)~~ Community health centers special fund;
- ~~[(25)]~~ ~~(24)~~ Emergency medical services special fund;
- ~~[(26)]~~ ~~(25)~~ Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- ~~[(27)]~~ ~~(26)~~ Shared services technology special fund under section 27-43; and
- ~~[(28)]~~ ~~(27)~~ Automated victim information and notification system special fund established under section 353-136,

shall deduct five per cent of all receipts of all special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year."

SECTION 3. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a) Each special fund, except the:
 - (1) Transportation use special fund established by section 261D-1;
 - (2) Special out-of-school time instructional program fund under section 302A-1310;
 - (3) School cafeteria special funds of the department of education;
 - (4) Special funds of the University of Hawaii;
 - (5) State educational facilities improvement special fund;
 - (6) Special funds established by section 206E-6;
 - (7) Aloha Tower fund created by section 206J-17;
 - (8) Funds of the employees' retirement system created by section 88-109;
 - ~~[(9)] ~~Unemployment compensation fund established under section 383-121;~~~~
 - ~~[(10)]~~ ~~(9)~~ Hawaii hurricane relief fund established under section 431P-2;
 - ~~[(11)]~~ ~~(10)~~ Convention center enterprise special fund established under section 201B-8;
 - ~~[(12)]~~ ~~(11)~~ Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
 - ~~[(13)]~~ ~~(12)~~ Tourism special fund established under section 201B-11;
 - ~~[(14)]~~ ~~(13)~~ Universal service fund established under section 269-42;
 - ~~[(15)]~~ ~~(14)~~ Emergency and budget reserve fund under section 328L-3;
 - ~~[(16)]~~ ~~(15)~~ Public schools special fees and charges fund under section 302A-1130;
 - ~~[(17)]~~ ~~(16)~~ Sport fish special fund under section 187A-9.5;
 - ~~[(18)]~~ ~~(17)~~ Center for nursing special fund under section 304A-2163;
 - ~~[(19)]~~ ~~(18)~~ Passenger facility charge special fund established by section 261-5.5;
 - ~~[(20)]~~ ~~(19)~~ Court interpreting services revolving fund under section 607-1.5;
 - ~~[(21)]~~ ~~(20)~~ Hawaii cancer research special fund;
 - ~~[(22)]~~ ~~(21)~~ Community health centers special fund;
 - ~~[(23)]~~ ~~(22)~~ Emergency medical services special fund;

- [~~(24)~~] (23) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- [~~(25)~~] (24) Shared services technology special fund under section 27-43;
- [~~(26)~~] (25) Nursing facility sustainability program special fund, ~~[[under Act 156, Session Laws of Hawaii 2012]]~~;
- [~~((27))~~] (26) Automated victim information and notification system special fund established under section 353-136; and
- [~~(28)~~] (27) Hospital sustainability program special fund under ~~[[Act 217, Session Laws of Hawaii 2012]]~~,

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned."

SECTION 4. Section 383-121, Hawaii Revised Statutes, is amended to read as follows:

"§383-121 Unemployment compensation trust fund; establishment and control. There is established in the treasury of the State as a ~~[special]~~ trust fund, separate and apart from all public moneys or funds of the State, an unemployment compensation fund, which shall be administered by the department of labor and industrial relations exclusively for the purposes of this chapter. All contributions pursuant to this chapter shall be paid into the fund and all compensation and benefits payable pursuant to this chapter shall be paid from the fund. All moneys in the fund shall be mingled and undivided. The fund shall consist of:

- (1) All contributions collected pursuant to this chapter;
- (2) Interest earned on any moneys in the fund;
- (3) Any property or securities acquired through the use of moneys belonging to the fund;
- (4) All earnings of such property or securities;
- (5) All moneys credited to this State's account in the unemployment trust fund pursuant to section 903 of the Social Security Act, as amended; and
- (6) All other moneys received for the fund from any other source."

SECTION 5. Section 386-151, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is hereby created a trust fund to be known as the special compensation fund which shall consist of payments made to it as provided by law. The director of finance of the State shall be custodian of the fund, and all disbursements therefrom shall be paid by the director of finance upon orders by the director of labor and industrial relations."

SECTION 6. Section 392-61, Hawaii Revised Statutes, is amended to read as follows:

"§392-61 Establishment of ~~[special]~~ trust fund for disability benefits. There is established in the treasury of the State, separate and apart from all public moneys or funds of the State, a ~~[special]~~ trust fund for disability benefits which shall be administered by the director exclusively for the purposes of this chapter; and for the establishment and maintenance of a family leave data collection system under section 398-9.5. All contributions pursuant to this part shall be paid into the fund and all benefits payable under this part shall be paid from the fund. The fund shall consist of (1) all contributions collected pursuant to

this part, together with any interest thereon; (2) all fines and penalties for the fund pursuant to this chapter; (3) all moneys collected by way of subrogation; (4) interest earned on any moneys in the fund; (5) any property or securities acquired through the use of moneys belonging to the fund; (6) all earnings of such property and securities; and (7) all other moneys received for the fund from any source.”

SECTION 7. Section 393-41, Hawaii Revised Statutes, is amended to read as follows:

“[[§393-41]] Establishment of [special] premium supplementation trust fund. There is established in the treasury of the State, separate and apart from all public moneys or funds of the State, a [special] trust fund for premium supplementation which shall be administered exclusively for the purposes of this chapter. All premium supplementations payable under this part shall be paid from the fund. The fund shall consist of (1) all money appropriated by the State for the purposes of premium supplementation under this part and (2) all fines and penalties collected pursuant to this chapter.”

SECTION 8. To conform to the change in the name “special fund for disability benefits” to “trust fund for disability benefits,” the title of part IV of chapter 392, Hawaii Revised Statutes, and sections 392-28(3) and (4), 392-42.5(b), 392-43(f) and (g), 392-45, 392-46, 392-47, 392-52, 392-62, 392-63, 392-64, 392-65, 392-67, 392-69, 392-72(a), 392-78(d), and 392-92(b), Hawaii Revised Statutes, are amended by substituting the word “trust fund” or like term, wherever the words “special fund” or like term appears, as the context requires.

SECTION 9. To conform to the change in the name “special fund for premium supplementation” to “trust fund for premium supplementation,” sections 393-33(a) and 393-34(b), Hawaii Revised Statutes, are amended by substituting the words “trust fund” or like term, wherever the words “special fund” or like term appears, as the context requires.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval; provided that the amendments made to sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, under sections 2 and 3 of this Act respectively, shall not be repealed when those sections are reenacted on June 30, 2015, pursuant to section 34 of Act 79, Session Laws of Hawaii 2009.

(Approved June 14, 2013.)

ACT 101

H.B. NO. 918

A Bill for an Act Relating to the Employment and Training Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the purpose of the Workforce Investment Act, through statewide and local workforce investment systems, is to increase the employment, retention, and earnings of participants and increase

occupational skill attainment by participants, and as a result, improve the quality of the workforce and enhance the productivity and competitiveness of Hawaii.

The legislature further finds that Act 2, Session Laws of Hawaii 2011, and Act 6, Session Laws of Hawaii 2012, provided a cost effective mechanism to pay interest on moneys borrowed from the federal government to pay unemployment insurance benefits. The employment and training fund was identified as the only cost effective mechanism available to collect an assessment from employers during 2011. If no interest payments were required in 2011, the intent of Act 2 was to have the aggregate amount collected for the purpose of interest payments to constitute the total employment and training assessments for calendar year 2012. However, a small amount of the assessment was used to pay interest due for moneys borrowed from the federal government in December 2010.

The legislature further finds that the reduction in Workforce Investment Act funding for administrative purposes has adversely affected the ability of the department of labor and industrial relations to carry out statewide administrative functions and to support the local workforce systems.

The purpose of this Act is to allow employment and training fund moneys to be used to supplement insufficient funds allocated under the federal Workforce Investment Act of 1998, Public Law 105-220, as amended, as a temporary, stopgap measure during the next year until a longer-term solution is derived. The purpose of this Act is also to clarify that the moneys collected as part of the employment and training assessment for the purpose of paying interest assessments in 2011 are used by the employment and training fund to support workforce training activities and further the economic recovery of the State.

SECTION 2. Section 383-128, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The moneys in the employment and training fund may be used for funding:

- (1) The operation of the state employment service for which no federal funds have been allocated;
- (2) Business-specific training programs to create a more diversified job base and to carry out the purposes of the new industry training program pursuant to section 394-8;
- (3) Industry or employer-specific training programs where there are critical skill shortages in high growth occupational or industry areas;
- (4) Training and retraining programs to assist workers who have become recently unemployed or are likely to be unemployed;
- (5) Programs to assist residents who do not otherwise qualify for federal or state job training programs to overcome employment barriers; ~~and~~
- (6) Training programs to provide job-specific skills for individuals in need of assistance to improve career employment prospects~~[-]; and~~
- (7) For the period from July 1, 2013, to June 30, 2014, costs to administer, manage, report, and oversee title I programs funded under the federal Workforce Investment Act of 1998, P.L. 105-220, as amended.”

SECTION 3. If any part of this Act is found to be in conflict with federal requirements that are a prescribed condition for the allocation of federal funds to the State, the conflicting part of this Act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding

does not affect the operation of the remainder of this Act in its application to the agencies concerned.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2013.

(Approved June 14, 2013.)

ACT 102

H.B. NO. 929

A Bill for an Act Relating to Employment and Training Assessment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 383-129, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to contributions determined by section 383-68, every employer, except an employer who has selected an alternative method of financing liability for unemployment compensation benefits pursuant to section 383-62, or an employer who has been assigned a minimum rate of zero per cent or the maximum rate ~~[of five and four tenths per cent]~~ of the applicable schedule in accordance with section 383-68, shall be subject to an employment and training fund assessment at a rate of .01 per cent of taxable wages as specified in section 383-61.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on January 1, 2014.

(Approved June 14, 2013.)

ACT 103

H.B. NO. 1137

A Bill for an Act Relating to Family Court.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 149, Session Laws of Hawaii 2008, requires the court to define the requirements to be a court-appointed child custody evaluator, the standards of practice, ethics, policies, and procedures required of court-appointed child custody evaluators in the performance of their duties for all courts, and the powers of the courts over child custody evaluators to effectuate the best interests of a child in a contested custody dispute. Act 149 further provides that where there is no child custody evaluator available that meets the requirements and standards, or any child custody evaluator to serve indigent parties, the court may appoint a person otherwise willing and available.

Actions for divorce, separation, annulment, or separate maintenance, or any other proceeding where there is at issue a dispute as to the custody of a minor child, allow the family court, during the pendency of the action, at the final hearing, or at any time during the minority of the child, to make an order for the

custody of the minor child as may be necessary or proper. For this purpose, section 571-46, Hawaii Revised Statutes, allows the court to appoint a child custody evaluator for an investigation and report concerning the care, welfare, and custody of any minor child of the parties. The court may also hear testimony from any person or expert whose skill, insight, knowledge, or experience is such that the person's or expert's testimony is relevant to a just and reasonable determination of what is for the best physical, mental, moral, and spiritual well-being of the child whose custody is at issue.

The legislature finds that Act 149 needs clarification to expedite the establishment of a system of child custody evaluators that ensures competent evidence and a fair determination in child custody cases.

The purpose of this Act is to clarify the appointment requirements and qualifications for child custody evaluators and to require the judiciary to establish a referral process for complaints regarding court-appointed child custody evaluators.

SECTION 2. Chapter 571, Hawaii Revised Statutes, is amended by adding a new section to part V to be appropriately designated and to read as follows:

"§571- Child custody evaluators; qualification; registry; complaints. (a)

A person may be appointed as a child custody evaluator for purposes of section 571-46 if the person is actively licensed as a:

- (1) Physician under chapter 453 and is a board certified psychiatrist or has completed a residency in psychiatry;
- (2) Psychologist under chapter 465;
- (3) Marriage and family therapist under chapter 451J; or
- (4) Clinical social worker under section 467E-7(3).

(b) A person may be appointed as a child custody evaluator in the absence of a license under subsection (a) if:

- (1) The individual has obtained education and training that meet nationally recognized competencies and standards of practice in child custody evaluation; provided that there are no child custody evaluators enumerated under subsection (a) who are willing and available, within a reasonable period of time, to perform child custody evaluations; or
- (2) The parties stipulate to a person who does not qualify as a child custody evaluator under subsection (a) and the court approves that person as a fact-finding investigator to the court.

(c) The judiciary shall maintain on its website a publicly accessible registry of child custody evaluators who are qualified pursuant to this section. Professionals who are willing and available to perform child custody evaluations shall be responsible for providing the judiciary with relevant information, including contact information, evidence of qualifications, and fees.

(d) The judiciary shall establish a referral process to allow parties to file a complaint with the judiciary regarding a court-appointed child custody evaluator. Upon notification by a party of the party's intent to file a complaint against a child custody evaluator appointed under subsection (a), the judiciary may refer the complainant to the appropriate licensing authority. The judiciary shall submit to the legislature an annual report regarding the number of complaints against court-appointed child custody evaluators that are processed through the referral process.

(e) A complaint against a court-appointed child custody evaluator not qualified under subsection (a) may be resolved through civil litigation."

SECTION 3. Section 571-46, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In actions for divorce, separation, annulment, separate maintenance, or any other proceeding where there is at issue a dispute as to the custody of a minor child, the court, during the pendency of the action, at the final hearing, or any time during the minority of the child, may make an order for the custody of the minor child as may seem necessary or proper. In awarding the custody, the court shall be guided by the following standards, considerations, and procedures:

- (1) Custody should be awarded to either parent or to both parents according to the best interests of the child, and the court also may consider frequent, continuing, and meaningful contact of each parent with the child unless the court finds that a parent is unable to act in the best interest of the child;
- (2) Custody may be awarded to persons other than the father or mother whenever the award serves the best interest of the child. Any person who has had de facto custody of the child in a stable and wholesome home and is a fit and proper person shall be entitled prima facie to an award of custody;
- (3) If a child is of sufficient age and capacity to reason, so as to form an intelligent preference, the child’s wishes as to custody shall be considered and be given due weight by the court;
- (4) Whenever good cause appears therefor, the court may require an investigation and report concerning the care, welfare, and custody of any minor child of the parties. When so directed by the court, investigators or professional personnel attached to or assisting the court, hereinafter referred to as child custody evaluators, shall make investigations and reports that shall be made available to all interested parties and counsel before hearing, and the reports may be received in evidence if no objection is made and, if objection is made, may be received in evidence; provided the person or persons responsible for the report are available for cross-examination as to any matter that has been investigated; and provided further that the court shall define, in accordance with section 571- , the requirements to be a court-appointed child custody evaluator, the standards of practice, ethics, policies, and procedures required of court-appointed child custody evaluators in the performance of their duties for all courts, and the powers of the courts over child custody evaluators to effectuate the best interests of a child in a contested custody dispute pursuant to this section. Where there is no child custody evaluator available that meets the requirements and standards, or any child custody evaluator to serve indigent parties, the court may appoint a person otherwise willing and available[;] in accordance with section 571- ;
- (5) The court may hear the testimony of any person or expert, produced by any party or upon the court’s own motion, whose skill, insight, knowledge, or experience is such that the person’s or expert’s testimony is relevant to a just and reasonable determination of what is for the best physical, mental, moral, and spiritual well-being of the child whose custody is at issue;
- (6) Any custody award shall be subject to modification or change whenever the best interests of the child require or justify the modification or change and, wherever practicable, the same person who made the

- original order shall hear the motion or petition for modification of the prior award;
- (7) Reasonable visitation rights shall be awarded to parents, grandparents, siblings, and any person interested in the welfare of the child in the discretion of the court, unless it is shown that rights of visitation are detrimental to the best interests of the child;
 - (8) The court may appoint a guardian ad litem to represent the interests of the child and may assess the reasonable fees and expenses of the guardian ad litem as costs of the action, payable in whole or in part by either or both parties as the circumstances may justify;
 - (9) In every proceeding where there is at issue a dispute as to the custody of a child, a determination by the court that family violence has been committed by a parent raises a rebuttable presumption that it is detrimental to the child and not in the best interest of the child to be placed in sole custody, joint legal custody, or joint physical custody with the perpetrator of family violence. In addition to other factors that a court shall consider in a proceeding in which the custody of a child or visitation by a parent is at issue, and in which the court has made a finding of family violence by a parent:
 - (A) The court shall consider as the primary factor the safety and well-being of the child and of the parent who is the victim of family violence;
 - (B) The court shall consider the perpetrator's history of causing physical harm, bodily injury, or assault or causing reasonable fear of physical harm, bodily injury, or assault to another person; and
 - (C) If a parent is absent or relocates because of an act of family violence by the other parent, the absence or relocation shall not be a factor that weighs against the parent in determining custody or visitation;
 - (10) A court may award visitation to a parent who has committed family violence only if the court finds that adequate provision can be made for the physical safety and psychological well-being of the child and for the safety of the parent who is a victim of family violence;
 - (11) In a visitation order, a court may:
 - (A) Order an exchange of a child to occur in a protected setting;
 - (B) Order visitation supervised by another person or agency;
 - (C) Order the perpetrator of family violence to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators or other designated counseling as a condition of the visitation;
 - (D) Order the perpetrator of family violence to abstain from possession or consumption of alcohol or controlled substances during the visitation and for twenty-four hours preceding the visitation;
 - (E) Order the perpetrator of family violence to pay a fee to defray the costs of supervised visitation;
 - (F) Prohibit overnight visitation;
 - (G) Require a bond from the perpetrator of family violence for the return and safety of the child. In determining the amount of the bond, the court shall consider the financial circumstances of the perpetrator of family violence;

- (H) Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of family violence, or other family or household member; and
- (I) Order the address of the child and the victim to be kept confidential;
- (12) The court may refer but shall not order an adult who is a victim of family violence to attend, either individually or with the perpetrator of the family violence, counseling relating to the victim's status or behavior as a victim as a condition of receiving custody of a child or as a condition of visitation;
- (13) If a court allows a family or household member to supervise visitation, the court shall establish conditions to be followed during visitation;
- (14) A supervised visitation center shall provide a secure setting and specialized procedures for supervised visitation and the transfer of children for visitation and supervision by a person trained in security and the avoidance of family violence; and
- (15) The court may include in visitation awarded pursuant to this section visitation by electronic communication provided that the court shall additionally consider[
~~(A) The~~ the potential for abuse or misuse of the electronic communication, including the equipment used for the communication, by the person seeking visitation or by persons who may be present during the visitation or have access to the communication or equipment;
~~[(B) Whether]~~ whether the person seeking visitation has previously violated a temporary restraining order or protective order; and
~~[(C) Whether]~~ whether adequate provision can be made for the physical safety and psychological well-being of the child and for the safety of the custodial parent.

The court may set conditions for visitation by electronic communication, including visitation supervised by another person or occurring in a protected setting. Visitation by electronic communication shall not be used to:

- (A) Replace or substitute an award of custody or physical visitation except where:
 - (i) Circumstances exist that make a parent seeking visitation unable to participate in physical visitation, including military deployment; or
 - (ii) Physical visitation may subject the child to physical or extreme psychological harm; or
- (B) Justify or support the relocation of a custodial parent.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved June 14, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Public Utilities Commission.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to update codified position descriptions for public utilities commission staff. This Act amends existing position service types specifically provided for under section 269-3, Hawaii Revised Statutes, and position descriptions under Act 177, Session Laws of Hawaii 2007, to allow the commission to recruit and hire employees with the right combination of skills and experience demanded by the commission's evolving set of responsibilities.

SECTION 2. Section 269-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The chairperson of the public utilities commission may appoint and employ ~~[clerks, stenographers, agents, engineers, accountants,]~~ professional staff and other assistants for the public utilities commission as the chairperson finds necessary for the performance of the commission's functions and define their powers and duties. The chairperson may appoint and, at pleasure, dismiss a chief administrator and ~~[hearings officers]~~ attorneys as may be necessary[.], and who shall be exempt from chapter 76. [Notwithstanding section 103D-209, the chairperson shall appoint one or more attorneys independent of the attorney general who shall act as attorneys for the commission and define their powers and duties and fix their compensation. The chief administrator, chief of policy and research, chief of administrative support, chief of consumer affairs and compliance, utility analysts, and attorneys shall be exempt from chapter 76. Research assistants, economists, legal secretaries, legal assistants, and enforcement officers may be appointed with or without regard to chapter 76. Other employees shall be appointed as may be needed by the chairperson in accordance with chapter 76.] The chairperson may also appoint other staff with or without regard to chapter 76."

SECTION 3. Act 177, Session Laws of Hawaii 2007, section 1, is amended by amending subsection (c) to read as follows:

"(c) The purpose of this Act is to enhance the ability of the public utilities commission to carry out its duties and responsibilities by:

- (1) Requiring the commission to restructure its operations ~~[pursuant to the commission's December 2006, report to the legislature,]~~ to improve its effectiveness and efficiency; and
- (2) Authorizing the public utilities commission to consider the need for increased renewable energy use in exercising its authority and duties."

SECTION 4. Act 177, Session Laws of Hawaii 2007, is amended by amending section 4 to read as follows:

"SECTION 4. ~~[(a) The public utilities commission shall restructure its operations as provided for in part IV of the public utilities commission's report to the legislature required pursuant to Act 143, Session Laws of Hawaii, 2006.~~

~~(b) The restructuring shall include the following:~~

- (1) ~~The existing research section shall be expanded to include policy support positions and functions, and shall be renamed the office of policy and research;~~
- (2) ~~The consumer affairs and compliance section shall be responsible for consumer relations and investigation and enforcement activities of the public utilities commission;~~
- (3) ~~The administrative support section shall be supervised by the chief of administrative support and shall be comprised of clerical services staff, case management services staff, fiscal services staff, and information technology staff;~~
- (4) ~~Staffing shall be increased with the addition of the following positions:~~
 - (A) ~~For fiscal year 2008–2009:~~
 - (i) ~~A public utilities commission attorney shall be responsible for providing, among other things, legal support in petroleum dockets and initiatives statewide, and for complaint and inquiry handling;~~
 - (ii) ~~A legal assistant shall assist the chief counsel in all facets of legal work;~~
 - (iii) ~~A data processing systems analyst V shall be responsible for supervising information technology services staff, administering the document and docket management system, and assisting with petroleum monitoring system database management;~~
 - (iv) ~~A legal clerk shall be responsible for case management services clerical support, assisting the chief clerk, and performing duties as citation clerk;~~
 - (v) ~~An auditor VI shall be responsible for energy and petroleum dockets and issues and for conducting field audit inspections;~~
 - (vi) ~~An engineer V shall be responsible for energy and petroleum dockets and issues, energy utility field inspections, and informal inquiry handling; and~~
 - (vii) ~~A chief of consumer affairs and compliance shall be responsible for supervising the consumer affairs and compliance section; and~~
 - (B) ~~For fiscal year 2009–2010:~~
 - (i) ~~A public utilities commission attorney shall be responsible for legal support in telecommunications, dockets and issues, legislative and rulemaking initiatives, drafting and updating rules, and serving as a hearings officer;~~
 - (ii) ~~A legal clerk shall be responsible for case management services clerical support, assisting the chief clerk, and performing duties as citations clerk;~~
 - (iii) ~~An account clerk III shall be responsible for handling the pCard system, maintaining physical inventory, keeping fiscal records, and providing fiscal support for the commission;~~
 - (iv) ~~An auditor VI shall be responsible for telecommunications and utility dockets and related issues and conducting field audit inspections;~~
 - (v) ~~An engineer V shall be responsible for telecommunications and utility dockets and related issues, telecommu-~~

- (vi) Two research assistants shall be responsible for docket, non-docket, legislative, and industry research, analysis, and reporting;
- (5) Twelve existing positions shall be redescribed as follows:
 - (A) An existing attorney shall be redescribed as chief counsel to accurately reflect supervisory functions of this position, including responsibility and management of the office of commission counsel, acting as a counsel to the commission, and handling commission-related media correspondence;
 - (B) An existing research assistant position shall be redescribed as chief of administrative support to accurately reflect the administrative responsibilities of the position, including supervising clerical, case management, fiscal, and information technology staff;
 - (C) An existing chief researcher shall be redescribed as chief of policy and research to accurately represent the additional responsibilities of the policy arm of the policy and research services section. The chief of policy and research shall manage the utility analysts, research assistants, and economists; advise the commission on all regulated industry related matters and government policy; and oversee legislative initiatives, media relations, and special projects;
 - (D) The chief engineer shall be increased from level V to level VI to enable the commission to recruit for the position at a higher level and to allow staff level engineers to move to level V;
 - (E) The existing legal stenographer shall be redescribed as a legal assistant to update this position since stenographers are no longer recruited due to outdated position descriptions;
 - (F) The existing clerk typist III position shall be redescribed as a legal clerk to elevate the qualifications of the position and to help meet new functional requirements, including maintenance of a new document and docket management systems and increased citation activity;
 - (G) An existing research assistant position shall be redescribed as an investigator V to accurately reflect senior level responsibilities of the position; and
 - (H) Five existing research assistants shall be redescribed as utility analysts to allow for increased industry expertise and focus necessary for the new policy-making function of the policy and research section;
- (6) The following temporary positions, relating to gas cap and petroleum monitoring, shall be converted to permanent positions to promote successful recruitment and retention of qualified individuals:
 - (A) Public utilities commission economist;
 - (B) Public utilities commission attorney;
 - (C) Two utility analysts (previously research assistants);
 - (D) Clerk typist II;
 - (E) Enforcement officer; and
 - (F) Secretary I; and
- (7) Additional office space shall be leased and the office relocated.
- (e)] Upon request by the public utilities commission, all other state and county agencies shall assist the public utilities commission in carrying

out the provisions of this Act. The department of human resources development shall work cooperatively with the public utilities commission in renaming or re-describing job descriptions as is deemed necessary by the public utilities commission.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 14, 2013.)

ACT 105

H.B. NO. 673

A Bill for an Act Relating to Pesticides.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to better address the potential public health and environmental issues related to pesticides by requiring: the on-line publishing of certain restricted use pesticide records, reports, or forms; and a study of other states’ reporting requirements for certain pesticides.

SECTION 2. Chapter 149A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§149A- Pesticide use; posting online. (a) The department shall publish on its website the public information contained in all restricted use pesticide records, reports, or forms submitted to the department, except those records, reports, or forms required by the department for restricted use pesticides used for structural pest control; provided that the department shall not post information on its website protected by section 92F-13.

(b) The department may prepare any forms necessary to meet the requirements of this section. In addition to any other administrative requirements, the department may also require the persons or entities filing pesticide records, reports, or forms to furnish an additional form that shall be suitable for posting online in response to requests pursuant to chapter 92F or title 5 United States Code section 552; provided that the additional form shall not require the disclosure of information protected by section 92F-13.

(c) For the purposes of this section, “structural pest control” means the control of wood-destroying organisms or household pests, including but not limited to moths, cockroaches, ants, beetles, flies, mosquitoes, ticks, wasps, bees, fleas, mites, silverfish, millipedes, centipedes, sowbugs, crickets, termites, or wood borers, including through any one or combination of the following:

- (1) The identification of infestations or infections; conducting of inspections; or use of pesticides, including insecticides, repellents, attractants, rodenticides, fungicides, fumigants, and all other substances, mechanical devices, or structural modifications under whatever name known for the purposes of preventing, controlling, and eradicating insects, vermin, rodents, and other pests in household structures, commercial buildings, other structures including household structures, commercial buildings, and other structures in all stages of construction, and outside areas;

- (2) All phases of fumigation, including treatment of products by vacuum fumigation; or
- (3) The fumigation of railroad cars, trucks, ships, and airplanes.”

SECTION 3. (a) To the extent of any available information, the legislative reference bureau shall conduct a study on pesticides that includes: whether other states impose any type of reporting requirements on pesticides that do not fall within the definition of a restricted use pesticide; and if so, the details of the reporting requirement and any other relevant information, to the extent ascertainable.

(b) For purposes of this section, the term “restricted use pesticide” has the same meaning as in section 149A-2, Hawaii Revised Statutes.

(c) The legislative reference bureau shall submit a report to the legislature, no later than twenty days prior to the convening of the regular session of 2014, on its findings pursuant to subsection (a).

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on July 1, 2013.

(Approved June 14, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 106

S.B. NO. 326

A Bill for an Act Relating to Agriculture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that food safety is a significant concern for residents in Hawaii and the United States. However, the issue of food safety cannot be addressed in a vacuum and involves collaboration amongst farmers, large and small; consumers; and various state and federal agencies. The federal Food Safety Modernization Act was enacted with the express purpose of addressing food safety and agriculture issues. The United States Food and Drug Administration, in partnership with the United States Department of Agriculture, is crafting the necessary rules to implement the Food Safety Modernization Act. While the federal regulations for the Food Safety Modernization Act have not been finalized, the State of Hawaii intends to proactively examine good agricultural practices that will improve the overall safety of the food the residents of Hawaii grow and eat and provide farmers with rules that address locally-based concerns.

United States Deputy Secretary of Agriculture, Kathleen Merrigan, partnered with FamilyFarmed.org to create an online tool that enables produce growers to create customized food safety plans. The use of this tool is voluntary but would provide growers the ability to assess risks specific to their farms and suggest practices to mitigate those risks. In a similar fashion, the State of Hawaii intends to work with agriculture producers to develop preventative measures that will address inherent risks involved in current farming and ranching practices. The preventative measures will address practices throughout the food

supply system, from the foods' origin on the farm to its ultimate destination, the wholesaler or retailer.

In addressing good agricultural practices and preventative measures from farm to wholesaler, one vital component to address is integrated pest management. Safe practices on farms cannot be addressed without addressing the proper use of pesticides. A good integrated pest management system incorporates proper sanitation practices, physical barriers, bio-control, and use of pesticides when necessary.

The purpose of this Act is to mitigate health and food safety risks involved in food production by establishing a task force to identify and develop good agricultural practices and preventative measure guidelines to ensure safe food throughout the farm-to-consumer food supply system.

SECTION 2. (a) There is established a good agricultural practices task force to identify and develop good agricultural practices and preventative measure guidelines in the food supply system to improve the overall safety of locally grown food.

(b) The chairperson of the board of agriculture or the chairperson's designee shall serve as chair of the task force.

(c) Notwithstanding section 26-34, Hawaii Revised Statutes, the task force shall be composed of:

- (1) The director of health, or the director's designee;
- (2) The dean of the University of Hawaii college of tropical agriculture and human resources or the dean's designee;
- (3) The chair of the senate committee on agriculture;
- (4) The chair of the house of representatives committee on agriculture;
- (5) The president of the Hawaii Farm Bureau Federation or the president's designee;
- (6) The president of the Hawaii Farmer's Union United or the president's designee;
- (7) Four representatives from agricultural producers statewide selected by the governor, at least one of which represents the interests of organic farmers; and
- (8) One representative appointed by the governor from each of the following industries, who shall be requested to serve:
 - (A) Wholesale distribution;
 - (B) Manufacturing;
 - (C) Retail;
 - (D) Hotels;
 - (E) Restaurants; and
 - (F) Farmers' markets.

(d) The food safety task force shall:

- (1) Identify and develop good agricultural practices and preventative measure guidelines for agricultural producers to follow, in order to mitigate food safety risks that may arise throughout the farm-to-consumer food supply system; and
- (2) Research other state, county, and organizational policies and suggested best practices related to food safety that may arise in the farm-to-consumer supply system.

(e) The task force shall submit a report of its findings, recommendations, and proposed legislation to the legislature, no later than twenty days prior to the convening of the regular session of 2014, and shall be dissolved on July 1, 2014.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved June 14, 2013.)

ACT 107

S.B. NO. 995

A Bill for an Act Relating to Irrigation Water Development.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. In 1987, the legislature determined that the development of irrigation was necessary for the development of agriculture in the State and enacted chapter 167, Hawaii Revised Statutes. Since that time, the agricultural resource management division has grown considerably. Where once the division dealt with \$2,000,000 in projects, it now oversees over \$100,000,000 in projects.

Furthermore, in 2003, through Act 90, the legislature established the groundwork for the non-agricultural park lands program and consequently made the agricultural resource management division the largest land program within the department of agriculture. However, this growth in work volume and responsibility has not been matched by an increase in the necessary staffing. The agricultural resource management division has been forced to take on more responsibility with limited staffing and resources.

The purpose of this Act is to create the management framework necessary to oversee the agricultural resource management division so that it can be expanded to meet the growing responsibilities that the division faces.

SECTION 2. Section 167-3, Hawaii Revised Statutes, is amended to read as follows:

“[H]§167-3[H] Engineering program [manager] administrator. The board of agriculture shall appoint a registered professional engineer who shall act as engineering program [manager] administrator of the irrigation water development program and have such qualifications as the board may deem necessary. The appointment and removal of the engineering program [manager] administrator shall be in accordance with chapter 76 and the engineering program [manager] administrator shall perform duties as set forth by the board.”

SECTION 3. Section 167-19, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All irrigation projects established pursuant to this chapter shall be administered by the board of agriculture. In making the final determination to establish a project, the board shall:

- (1) Determine the proportion of acreage assessments to be borne by the agricultural land and pasture land within the project; and
- (2) Have the engineering program [manager] administrator prepare a map setting forth in detail the exterior boundaries of the lands to be included within the project and an acreage assessment roll listing all known land occupiers whose lands are to be included within the project. The proportion of acreage assessments to be borne by pasture land, at the discretion of the board, may be less than but not more than the proportion to be borne by agricultural land, in which event the agricultural land shall be first served with water in times of drought or shortage of supply. The proportions to be borne by agricultural and pasture lands shall be certified by the board and shall

not be changed after final determination to establish the project, except in conjunction with a redefinition of the boundaries of or consolidation or separation of the project, and then only in the manner and within the limitations specified in conjunction therewith.

The board shall determine and certify on or before June 30 of each year the amount of acreage assessments necessary in that fiscal year for the acquisition, construction, operation, and maintenance of irrigation facilities for each project, and the acreage of agricultural and pasture land of each land occupier within the project. The department shall immediately notify the land occupiers of the amounts assessed on the respective properties and the payment due date."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 14, 2013.)

ACT 108

S.B. NO. 697

A Bill for an Act Relating to Aerospace.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 201-72.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) All members shall serve for a term of [~~two~~] four years. Any vacancies occurring in the membership of the committee shall be filled for the remainder of the unexpired term in the same manner as the original appointments."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 2013.)

ACT 109

H.B. NO. 471

A Bill for an Act Relating to Starlight Reserve.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 161, Session Laws of Hawaii 2009, section 6, as amended by Act 39, Session Laws of Hawaii 2011, section 1, is amended to read as follows:

"SECTION 6. **Report; advisory committee terminated.** (a) The department of business, economic development, and tourism shall submit a final report to the legislature no later than twenty days prior to the convening of the regular session of 2010. The report shall include findings, recommendations, and necessary proposed legislation to implement this part.

(b) The advisory committee created in this part shall be terminated on June 30, ~~[2013.] 2015.~~”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on June 29, 2013.

(Approved June 14, 2013.)

ACT 110

S.B. NO. 722

A Bill for an Act Relating to Government.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Act 54, Session Laws of Hawaii 2011, establishes a comprehensive information system for public lands to be used for the inventory and maintenance of information relating to the public land trust, also known as ceded lands, and other state lands. All state and county agencies are directed to assist the department of land and natural resources in facilitating the establishment of the comprehensive information system for public lands.

The legislature further finds that the inventory required to be taken and information to be maintained are important tools to assist the State to manage its assets.

The legislature further finds that insufficient information on underutilized public facilities exacerbates lost revenues for the State, so it is important that all state and county agencies work together to ensure that state facilities are used to their fullest potential.

The purpose of this Act is to require the department of accounting and general services to expand the scope of the comprehensive information system established pursuant to Act 54, Session Laws of Hawaii 2011, to inventory and maintain information about the lands of the public land trust described in section 5(f) of the Admission Act and article XII, section 4, of the Hawaii State Constitution to include public buildings, facilities, and sites thereby creating a comprehensive asset management system for public lands and facilities.

SECTION 2. Act 54, Session Laws of Hawaii 2011, is amended by adding a new section to read as follows:

“SECTION 2A. (a) The department of accounting and general services shall coordinate efforts to establish a complete and accurate inventory of public buildings, facilities, and sites on the lands of the public land trust to which state agencies hold title or over which they maintain management control by accepting information from state agencies on the inventory of public buildings owned or operated by each agency.

(b) The department of accounting and general services shall incorporate the inventory of public buildings, facilities, and sites together with the public land trust inventory and the public land trust information system to create an integrated, comprehensive system for asset management of public buildings, facilities, and sites. All state agencies shall transfer to the department of accounting and general services all programs and hardware associated with the inventory for purposes of this subsection.

(c) All state agencies shall report to the department of accounting and general services by December 1, 2013, an inventory of public buildings, facilities, and sites owned or operated by the reporting agency and shall comply with requests for information or services by the department of accounting and general services in furtherance of this section.

(d) The department of accounting and general services shall submit a report to the legislature of its progress in implementing this section no later than twenty days before the commencement of the regular session of 2014.

(e) As used in this Act, the term "public buildings, facilities, and sites" shall have the same meaning as set forth in section 103-50, Hawaii Revised Statutes."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the department of accounting and general services to coordinate the inventory of public buildings, facilities, and sites and for the creation of a comprehensive system for asset management.

The sum appropriated shall be expended by the department of accounting and general services for the purposes of this Act.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2013.

(Approved June 14, 2013.)

ACT 111

S.B. NO. 31

A Bill for an Act Relating to Campaign Spending.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 11-335, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) The authorized person in the case of a party, or treasurer in the case of a noncandidate committee that is not a party, shall file preliminary, final, and supplemental reports that disclose the following information:

- (1) The noncandidate committee's name and address;
 - (2) The cash on hand at the beginning of the reporting period and election period;
 - (3) The reporting period and election period aggregate totals for each of the following categories:
 - (A) Contributions[;] received;
 - (B) Contributions made;
 - ~~[(B)]~~ (C) Expenditures; and
 - ~~[(C)]~~ (D) Other receipts;
 - (4) The cash on hand at the end of the reporting period; and
 - (5) The surplus or deficit at the end of the reporting period.
- (b) Schedules filed with the reports shall include the following additional information:

- (1) The amount and date of deposit of each contribution received and the name, address, occupation, and employer of each contributor making a contribution aggregating more than \$100 during an election period, which was not previously reported; provided that if all

the information is not on file, the contribution shall be returned to the contributor within thirty days of deposit;

- (2) The amount and date of each contribution made, and the name and address of the candidate committee or noncandidate committee to which the contribution was made;
- [(2)] (3) All expenditures, including the name and address of each payee and the amount, date, and purpose of each expenditure[-]; provided that:
 - (A) Expenditures for consultants, advertising agencies and similar firms, credit card payments, salaries, and candidate reimbursements shall be itemized to permit a reasonable person to determine the ultimate intended recipient of the expenditure and its purpose; and
 - (B) The purpose of an independent expenditure shall include the name of the candidate who is supported or opposed by the expenditure, and whether the expenditure supports or opposes the candidate;
- [(3)] (4) The amount, date of deposit, and description of other receipts and the name and address of the source of each of the other receipts;
- [(4)] (5) A description of each durable asset, the date of acquisition, value at the time of acquisition, and the name and address of the vendor or contributor of the asset; and
- [(5)] (6) The date of disposition of a durable asset, value at the time of disposition, method of disposition, and name and address of the person receiving the asset.”

SECTION 2. Section 11-336, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

- “(d) The filing dates for supplemental reports are:
 - (1) January 31 ~~[after an election year]~~; and
 - (2) July 31 after an election year.

The report shall be current through December 31 for the report filed on January 31 and current through June 30 for the report filed on July 31.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 2013.)

ACT 112

H.B. NO. 1147

A Bill for an Act Relating to Campaign Spending.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the State has a duty to the residents of Hawaii to ensure that information concerning campaign contributions and expenditures is readily available to and easily accessible by the public. Disclosure is now more important than ever to the election process in light of the dramatic changes in policy regarding corporate independent expenditures as reflected in the recent decision of the United States Supreme Court in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010).

Since *Citizens United*, case law across the country has supported transparency and disclosure provisions in campaign finance laws. See *Human Life of Washington, Inc. v. Brumsickle*, 624 F.3d 990 (9th Cir. 2010). Hawaii's disclosure and transparency provisions allow our electorate to "follow the money." It is the intent of the legislature to expand those disclosure and transparency provisions, building on the existing statutory structure.

The legislature finds that additional disclosure is needed in light of the advent of noncandidate committees, or political action committees, that make only independent expenditures commonly known as SuperPACs. These are political committees that can operate without a contribution limit because they make independent expenditures only, that is, expenditures that are not coordinated with any candidate for office. SuperPACs came into existence due to case law following *Citizens United*. In Hawaii, as elsewhere, SuperPACs have accumulated significant funds from a single source or from very few sources. The existing disclosure requirements in campaign advertising are insufficient to identify the true source of the funds for an advertisement as it reaches the public. The new provision proposed by this Act specifically requires additional disclosure of the top contributors to SuperPACs in campaign advertisements made by noncandidate committees that certify to the campaign spending commission that they are making only independent expenditures, and is designed to remedy the lack of adequate disclosure in campaign advertisements made by SuperPACs under existing law.

It is also the intent of the legislature to remove redundancy, eliminate possible confusion, and expand the disclosure requirements applicable to corporations under the state campaign finance law. Under current Hawaii law, any organization, regardless of form, reports as a noncandidate committee if its expenditures or contributions, in the aggregate, exceed the \$1,000 threshold. The legislature finds that the registration and reporting requirements of noncandidate committees, under sections 11-323 and 11-321(g), Hawaii Revised Statutes, overlap and are redundant with those required of corporations under section 11-332, Hawaii Revised Statutes. This Act repeals section 11-332, Hawaii Revised Statutes, to provide that all corporations that make more than \$1,000, in the aggregate, in expenditures or contributions shall report as noncandidate committees, which will require more disclosure than the current reporting requirements for corporations.

Accordingly, the purpose of this Act is to increase transparency in campaign spending and to expand the public's access to information about campaign contributions and expenditures.

SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to subpart H of part XIII to be appropriately designated and to read as follows:

"§11- Identification of certain top contributors to noncandidate committees making only independent expenditures. (a) An advertisement shall contain an additional notice in a prominent location immediately after or below the notices required by section 11-391, if the advertisement is broadcast, televised, circulated, or published, including by electronic means, and is paid for by a noncandidate committee that certifies to the commission that it makes only independent expenditures. This additional notice shall start with the words, "The three top contributors for this advertisement are", followed by the names of the three top contributors, as defined in subsection (e), who made the highest aggregate contributions to the noncandidate committee for the purpose of funding the advertisement; provided that:

- (1) If a noncandidate committee is only able to identify two top contributors who made contributions for the purpose of funding the advertisement, the additional notice shall start with the words, "The two top contributors for this advertisement are", followed by the names of the two top contributors;
- (2) If a noncandidate committee is able to identify only one top contributor who made contributions for the purpose of funding the advertisement, the additional notice shall start with the words, "The top contributor for this advertisement is", followed by the name of the top contributor;
- (3) If a noncandidate committee is unable to identify any top contributors who made contributions for the purpose of funding the advertisement, the additional notice shall start with the words, "The three top contributors for this noncandidate committee are", followed by the names of the three top contributors who made the highest aggregate contributions to the noncandidate committee; and
- (4) If there are no top contributors to the noncandidate committee, the noncandidate committee shall not be subject to this section.

In no case shall a noncandidate committee be required to identify more than three top contributors pursuant to this section.

(b) If a noncandidate committee has more than three top contributors who contributed in equal amounts, the noncandidate committee may select which of the top contributors to identify in the advertisement; provided that the top contributors not identified in the advertisement did not make a higher aggregate contribution than those top contributors who are identified in the advertisement. The additional notice required for noncandidate committees described under this subsection shall start with the words "Three of the top contributors for this advertisement are" or "Three of the top contributors to this noncandidate committee are", as appropriate, followed by the names of the three top contributors.

(c) This section shall not apply to advertisements broadcast by radio or television of such short duration that including a list of top contributors in the advertisement would constitute a hardship to the noncandidate committee paying for the advertisement. A noncandidate committee shall be subject to all other requirements under this part regardless of whether a hardship exists pursuant to this subsection. The commission shall adopt rules pursuant to chapter 91 to establish criteria to determine when including a list of top contributors in an advertisement of short duration constitutes a hardship to a noncandidate committee under this subsection.

(d) Any noncandidate committee that violates this section shall be subject to a fine under section 11-410.

(e) For purposes of this part, "top contributor" means a contributor who has contributed an aggregate amount of \$10,000 or more to a noncandidate committee within a twelve-month period prior to the purchase of an advertisement."

SECTION 3. Section 11-314, Hawaii Revised Statutes, is amended to read as follows:

"[§11-314] Duties of the commission. The duties of the commission under this part are to:

- (1) Develop and adopt forms required by this part;

- (2) Adopt and publish a manual for all candidates, candidate committees, and noncandidate committees, describing the requirements of this part, including uniform and simple methods of recordkeeping;
- (3) Preserve all reports required by this part for at least ten years from the date of receipt by the commission;
- (4) Permit the inspection, copying, or ~~[duplicating]~~ duplication of any report required by this part pursuant to rules adopted by the commission under chapter 91; provided that this paragraph shall not apply to the sale or use of information under section 11-344;
- (5) Ascertain whether any ~~[candidate, candidate committee, noncandidate committee, or party]~~ person has failed to file a report required by this part or has filed a substantially defective or deficient report. The commission shall notify ~~[these persons]~~ the person by first class mail that a fine may be assessed for the failure to file or the filing of a substantially defective or deficient report, and the defective or deficient report shall be corrected and explained. All fines collected under this section as authorized by ~~[section]~~ sections 11-340 and 11-410 shall be deposited in the general fund of the State;
- (6) Hold public hearings;
- (7) Investigate and hold hearings for receiving evidence of any violations pursuant to subpart I of this part;
- (8) Adopt rules pursuant to chapter 91;
- (9) Request the initiation of prosecution for the violation of this part pursuant to section 11-411;
- (10) Administer and monitor the distribution of public funds under this part;
- (11) Suggest accounting methods for candidates, candidate committees, or noncandidate committees in connection with reports and records required by this part;
- (12) Employ or contract with, without regard to chapters 76, 78, and 89, persons it finds necessary for the performance of its functions, including a full-time executive director, and to fix their compensation; provided that the commission shall have the authority, at its discretion, to dismiss persons employed by or contracted with the commission;
- (13) Conduct random audits and field investigations, as necessary; and
- (14) File for injunctive relief when indicated."

SECTION 4. Section 11-331, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:
 "(a) Every report required to be filed by a candidate or candidate committee shall be certified as complete and accurate by the candidate and treasurer.
 (b) Every report required to be filed by a noncandidate committee shall be certified as complete and accurate by the chairperson and treasurer."
2. By amending subsection (f) to read:
 "(f) All reports filed under this part are public records[-] and shall be made available for public inspection on the commission's website in a searchable database."

SECTION 5. Section 11-335, Hawaii Revised Statutes, is amended to read as follows:

“~~§§11-335~~ Noncandidate committee reports. (a) The authorized person in the case of a party, or treasurer in the case of a noncandidate committee that is not a party, shall file preliminary, final, and supplemental reports that disclose the following information:

- (1) The noncandidate committee's name and address;
- (2) The cash on hand at the beginning of the reporting period and election period;
- (3) The reporting period and election period aggregate totals for each of the following categories:
 - (A) Contributions~~;~~ received;
 - ~~(B)~~ Contributions made;
 - ~~(B)~~ (C) Expenditures; and
 - ~~(C)~~ (D) Other receipts;
- (4) The cash on hand at the end of the reporting period; and
- (5) The surplus or deficit at the end of the reporting period.

(b) Schedules filed with the reports shall include the following additional information:

- (1) The amount and date of deposit of each contribution received and the name, address, occupation, and employer of each contributor making a contribution aggregating more than \$100 during an election period, which was not previously reported; provided that if all the information is not on file, the contribution shall be returned to the contributor within thirty days of deposit;
 - (2) The amount and date of each contribution made and the name and address of the candidate, candidate committee, or noncandidate committee to which the contribution was made;
 - ~~[(2)]~~ (3) All expenditures, including the name and address of each payee and the amount, date, and purpose of each expenditure~~[-];~~ provided that:
 - (A) Expenditures for advertisements or electioneering communications shall include the names of the candidates supported, opposed, or clearly identified;
 - (B) Expenditures for consultants, advertising agencies and similar firms, credit card payments, salaries, and candidate reimbursements shall be itemized to permit a reasonable person to determine the ultimate intended recipient of the expenditure and its purpose; and
 - (C) Independent expenditures shall include the name of any candidate supported, opposed, or clearly identified;
 - (4) For noncandidate committees making only independent expenditures, certification that no expenditures have been coordinated with a candidate, candidate committee, or any agent of a candidate or candidate committee;
 - ~~[(3)]~~ (5) The amount, date of deposit, and description of other receipts and the name and address of the source of each of the other receipts;
 - ~~[(4)]~~ (6) A description of each durable asset, the date of acquisition, value at the time of acquisition, and the name and address of the vendor or contributor of the asset; and
 - ~~[(5)]~~ (7) The date of disposition of a durable asset, value at the time of disposition, method of disposition, and name and address of the person receiving the asset.
- (c) No loan may be made or received by a noncandidate committee.
- (d) The authorized person in the case of a party, or treasurer in the case of a noncandidate committee that is not a party, shall file a late contribution

report as provided in section 11-338 if the committee receives late contributions from any person aggregating more than \$500 or makes late contributions aggregating more than \$500.

(e) For purposes of this section, "electioneering communication" means the same as defined in section 11-341."

SECTION 6. Section 11-337, Hawaii Revised Statutes, is amended to read as follows:

"[§11-337] Reporting expenditures. (a) For purposes of this part, an expenditure is deemed to be made or incurred when the services are rendered or the product is delivered. Services rendered or products delivered for use during a reporting period are deemed delivered or rendered during the period or periods of use; provided that these expenditures shall be reasonably allocated between periods in accordance with the time the services or products are actually used.

(b) Any expenditure that is contracted or paid for and that is to be rendered during the last three days prior to an election shall be included in a late expenditure report as provided in section 11-338."

SECTION 7. Section 11-338, Hawaii Revised Statutes, is amended to read as follows:

"[§11-338] Late contributions; late expenditures; report. (a) The candidate, authorized person in the case of a noncandidate committee that is a party, or treasurer in the case of a candidate committee or other noncandidate committee, that, within the period of fourteen calendar days through four calendar days prior to any election, makes contributions aggregating more than \$500, or receives contributions from any person aggregating more than \$500, shall file a late contribution report by means of the commission's electronic filing system on or before the third calendar day prior to the election.

(b) The late contribution report shall include the following information:

- (1) Name, address, occupation, and employer of the contributor;
- (2) Name of the candidate, candidate committee, or noncandidate committee making or receiving the contribution;
- (3) The amount of the contribution[;] received;
- (4) The amount of the contribution made;
- [(4)] (5) The contributor's aggregate contributions to the candidate, candidate committee, or noncandidate committee; and
- [(5)] (6) The purpose, if any, to which the contribution will be applied[-], including, for contributions to a noncandidate committee, the name of any candidate supported, opposed, or clearly identified.

(c) A noncandidate committee that makes independent expenditures in an aggregate amount of more than \$500 within the period between fourteen and four calendar days prior to any election shall file a late expenditure report by means of the commission's electronic filing system on or before the third calendar day prior to the election. The late expenditure report shall include the following information for each expenditure:

- (1) The amount and date made;
- (2) The vendor name, address, and contact information; and
- (3) The purpose, including the name of any candidate supported, opposed, or clearly identified by the expenditure.

[(e)] (d) A late contribution report or late expenditure report filed pursuant to this section shall be in addition to any other report required to be filed by this part."

SECTION 8. Section 11-340, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) True and accurate reports shall be filed with the commission on or before the due dates specified in this part. The commission may assess a fine against a ~~[candidate committee or noncandidate committee]~~ person that is required to file a report under this part if the report is not filed by the due date or if the report is substantially defective or deficient, as determined by the commission.”

SECTION 9. Section 11-341, Hawaii Revised Statutes, is amended to read as follows:

“[H§11-341] Electioneering communications; statement of information.

(a) Each person who makes ~~[a disbursement]~~ an expenditure for electioneering communications in an aggregate amount of more than \$2,000 during any calendar year shall file with the commission a statement of information within twenty-four hours of each disclosure date provided in this section.

(b) Each statement of information shall contain the following:

- (1) The name of the person making the ~~[disbursement;]~~ expenditure, name of any person or entity sharing or exercising discretion or control over ~~[such]~~ the person, and the custodian of the books and accounts of the person making the ~~[disbursement;]~~ expenditure;
- (2) The names and titles of the executives or board of directors who authorized the expenditure, if the expenditure was made by a non-candidate committee, business entity, or an organization;
- [(2)] (3) The state of incorporation or formation and principal ~~[place of business]~~ address of the noncandidate committee, business entity, or organization or~~;~~ for an individual, the name, address, occupation, and employer of the [person] individual making the ~~[disbursement;]~~ expenditure;
- [(3)] (4) The amount of each ~~[disbursement]~~ expenditure during the period covered by the statement and the identification of the person to whom the ~~[disbursement]~~ expenditure was made;
- [(4)] (5) The elections to which the electioneering communications pertain and the names~~[- if known, of the]~~ of any clearly identifiable candidates [identified or to be identified;] and whether those candidates are supported or opposed;
- [(5)] (6) If the ~~[disbursements]~~ expenditures were made by a candidate committee or noncandidate committee, the names and addresses of all persons who contributed to the candidate committee or noncandidate committee for the purpose of publishing or broadcasting the electioneering communications;
- [(6)] (7) If the ~~[disbursements]~~ expenditures were made by an organization other than a candidate committee or noncandidate committee, the names and addresses of all persons who contributed to the organization for the purpose of publishing or broadcasting the electioneering communications; ~~[and~~
- [(7)] (8) Whether or not any electioneering communication is made in coordination, cooperation, or concert with or at the request or suggestion of any candidate, candidate committee, or noncandidate committee, or agent of any candidate if any, and if so, the identification of the candidate, ~~[a]~~ candidate committee, or [a] noncandidate committee, or agent involved[-]; and

(9) The three top contributors as required under section 11- , if applicable.

(c) An electioneering communication statement of information filed pursuant to this section shall be in addition to the filing of any other report required under this part.

[(e)] (d) For purposes of this section:

“Disclosure date” means, for every calendar year, the first date by which a person has made ~~[disbursements]~~ expenditures during that same year of more than \$2,000 in the aggregate for electioneering communications, and the date of any subsequent ~~[disbursements]~~ expenditures by that person for electioneering communications.

“Electioneering communication” means any advertisement that is broadcast from a cable, satellite, television, or radio broadcast station; published in any periodical or newspaper[;] or by electronic means; or sent by mail at a bulk rate, and that:

- (1) Refers to a clearly identifiable candidate;
- (2) Is made, or scheduled to be made, either within thirty days prior to a primary or initial special election or within sixty days prior to a general or special election; and
- (3) Is not susceptible to any reasonable interpretation other than as an appeal to vote for or against a specific candidate.

“Electioneering communication” shall not include communications:

- (1) In a news story or editorial disseminated by any broadcast station or publisher of periodicals or newspapers, unless the facilities are owned or controlled by a candidate, candidate committee, or non-candidate committee;
- (2) That constitute expenditures by the ~~[disbursing]~~ expending organization;
- (3) In house bulletins; or
- (4) That constitute a candidate debate or forum, or solely promote a debate or forum and are made by or on behalf of the person sponsoring the debate or forum.

[(d)] (e) For purposes of this section, a person shall be treated as having made ~~[a disbursement]~~ an expenditure if the person has executed a contract to make the ~~[disbursement.]~~ expenditure.”

SECTION 10. Section 11-391, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any advertisement that is broadcast, televised, circulated, or published, including by electronic means, shall contain:

- (1) The name and address of the candidate, candidate committee, non-candidate committee, or other person paying for the advertisement; and
- (2) A notice in a prominent location stating either that:
 - (A) The advertisement ~~[is published, broadcast, televised, or circulated with]~~ has the approval and authority of the candidate; provided that an advertisement paid for by a candidate, candidate committee, or ballot issue committee does not need to include the notice; or
 - (B) The advertisement ~~[is published, broadcast, televised, or circulated without the approval and authority of]~~ has not been approved by the candidate.”

SECTION 11. Section 11-332, Hawaii Revised Statutes, is repealed.

SECTION 12. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 13. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 14. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 15. This Act shall take effect on November 5, 2014.

(Approved June 14, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 113

H.B. NO. 762

A Bill for an Act Relating to Washington Place.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26-6, Hawaii Revised Statutes, is amended to read as follows:

“§26-6 Department of accounting and general services. (a) The department of accounting and general services shall be headed by a single executive to be known as the comptroller.

(b) The department shall:

- (1) Preaudit and conduct after-the-fact audits of the financial accounts of all state departments to determine the legality of expenditures and the accuracy of accounts;
- (2) Report to the governor and to each regular session of the legislature as to the finances of each department of the State;
- (3) Administer the state risk management program;
- (4) Establish and manage motor pools;
- (5) Manage the preservation and disposal of all records of the State;
- (6) Undertake the program of centralized engineering and office leasing services, including operation and maintenance of public buildings, for departments of the State;
- (7) Undertake the functions of the state surveyor;
- (8) Establish accounting and internal control systems;
- (9) Provide centralized computer information management and processing services, coordination in the use of all information processing equipment, software, facilities, and services in the executive branch of the State, and consultation and support services in the use of information processing and management technologies to improve the efficiency, effectiveness, and productivity of state government programs; and

- (10) Establish, coordinate, and manage a program to provide a means for public access to public information and develop and operate an information network in conjunction with its overall plans for establishing a communication backbone for state government.

- (c) The state communication system shall be established to:

- (1) Facilitate implementation of the State's distributed information processing and information resource management plans;
 - (2) Improve data, voice, and video communications in state government;
 - (3) Provide a means for connectivity among the state, university, and county computer systems; and
 - (4) Provide a long-term means for public access to public information.

- (d) The department may adopt rules as may be necessary or desirable for the operation and maintenance of public buildings, and for the operation and implementation of a program to provide a means for public access to the State's information network system and public information. The rules shall be adopted pursuant to chapter 91.

- (e) The King Kamehameha celebration commission shall be placed within the department of accounting and general services for administrative purposes. The functions, duties, and powers, subject to the administrative control of the comptroller, and the composition of the commission shall be as heretofore provided by law.

- (f) The functions and authority heretofore exercised by the comptroller, board of commissioners of public archives, the archivist, the disposal committee, and the insurance management, surplus property management, and central purchasing functions of the bureau of the budget and the nonhighway functions of the department of public works as heretofore constituted are transferred to the department of accounting and general services established by this chapter.

- (g) The department of accounting and general services shall preserve and protect Washington Place, including the grounds and the historic residence situated on its premises at Miller and Beretania streets in Honolulu. The department shall administer, manage, operate, and maintain Washington Place and the trust fund created under subsection (h).

- (h) There is established a trust fund in the state treasury to be known as the Washington Place trust fund, into which shall be deposited:

- (1) All rents and fees collected for the use of Washington Place and from activities conducted on the premises;
 - (2) All other money received for the fund from any other source; and
 - (3) All income and interest earned or accrued on moneys deposited into the trust fund.

- All moneys deposited into the trust fund shall be expended by the department of accounting and general services and used exclusively to implement the provisions of subsection (g), including for staff salaries and fringe benefits, and shall not be transferred, nor subject to transfer, to the general fund or any other fund in the state treasury."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved June 14, 2013.)

A Bill for an Act Relating to Transportation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to part XIII to be appropriately designated and to read as follows:

"§286- Commercial learner's permit. (a) A commercial learner's permit shall be tamperproof; be marked with the words "commercial learner's permit" or "CLP" displayed prominently; include a statement that it is not valid for driving a commercial motor vehicle unless presented with the underlying commercial driver's license or non-commercial driver's license; and shall include but not be limited to the following with respect to the licensee:

- (1) The full name and current mailing, residential, and business addresses;
- (2) A physical description including sex and height;
- (3) Date of birth;
- (4) Signature;
- (5) The date of issuance and the date of expiration of the permit; and
- (6) The driver's state license number.

The commercial learner's permit shall not contain a photograph, digitized image, or other visual representation of the driver.

(b) A commercial learner's permit may be issued for the following vehicle categories:

- (1) Category A – Any combination of vehicles with a gross combination weight rating of twenty-six thousand one pounds or more; provided that the gross vehicle weight rating of the vehicles being towed is in excess of ten thousand pounds;
- (2) Category B – Any single vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more, or any such vehicle towing a vehicle not in excess of ten thousand pounds; and
- (3) Category C – Any single vehicle or combination of vehicles that meets neither the definition of category A nor that of category B, but that is either:
 - (A) Designed to transport sixteen or more passengers; or
 - (B) Used in the transportation of hazardous materials that require the vehicle to comply with Title 49 Code of Federal Regulations, part 172, subpart F.

(c) A commercial learner's permit may be issued with any one or more of the following endorsements and restrictions:

- (1) "P" – Authorizes driving passenger carrying vehicles; a commercial learner's permit holder with a "P" endorsement is prohibited from operating a commercial motor vehicle carrying passengers, other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver's license holder accompanying the commercial learner's permit holder; this endorsement is vehicle class specific;
- (2) "N" – Authorizes driving tank vehicles; a commercial learner's permit holder with an "N" endorsement may only operate with an empty tank vehicle and is prohibited from operating any tank vehi-

cle that previously contained hazardous materials that has not been purged of all residue;

- (3) “S” – Authorizes driving school buses; a commercial learner’s permit holder with an “S” endorsement is prohibited from operating a commercial motor vehicle carrying passengers, other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver’s license holder accompanying the commercial learner’s permit holder; this endorsement is vehicle class specific;
- (4) “P” – Restricts the driver from carrying passengers other than federal or state auditors and inspectors, test examiners, other trainees, and the commercial driver’s license holder accompanying the commercial learner’s permit holder; or
- (5) “X” – Restricts the driver from carrying cargo in a commercial motor vehicle tank and prohibits operating any tank vehicle that previously contained hazardous materials that has not been purged of any residue.

(d) If the commercial learner’s permit is a non-domiciled commercial learner’s permit, it must contain the prominent statement that the permit is a “non-domiciled commercial learner’s permit”, or “non-domiciled CLP”, as appropriate; the word “non-domiciled” shall be conspicuously and unmistakably displayed, but may be noncontiguous with the words “commercial learner’s permit”, or “CLP”.

(e) Before issuing a commercial learner’s permit, the examiner of drivers shall complete a check of the applicant’s driving record as provided in section 286-239(e) or (h).”

SECTION 2. Section 286-102, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No person shall receive a driver’s license without surrendering to the examiner of drivers all valid driver’s licenses and all valid identification cards in the person’s possession. All licenses and identification cards so surrendered shall be ~~returned to the issuing authority, together with information that the person is licensed in this State;~~ shredded; provided that with the exception of driver’s licenses issued by any Canadian province, a foreign driver’s license may be returned to the owner after being invalidated pursuant to issuance of a Hawaii license; ~~and~~ provided further that the examiner of drivers shall notify the authority that issued the foreign license that the license has been invalidated and returned because the owner is now licensed in this State[-]; and provided further that all commercial driver’s licenses that are surrendered shall be shredded. No person shall be permitted to hold more than one valid driver’s license at any time.”

SECTION 3. Section 286-231, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

““Non-domiciled commercial learner’s permit” means a commercial learner’s permit issued by a state under either of the following two conditions:

- (1) To an individual domiciled in a foreign country meeting the requirements of Title 49 Code of Federal Regulations section 383.23(b)(1);
or
- (2) To an individual domiciled in another state meeting the requirements of Title 49 Code of Federal Regulations section 383.23(b)(2).

"Tank vehicle" means any commercial vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than one hundred nineteen gallons and an aggregate rated capacity of one thousand gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation with a rated capacity of one thousand gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle."

2. By amending the definitions of "endorsement", "nonresident commercial driver's license", "serious traffic violation", and "texting" to read:

"Endorsement" means an authorization on an individual's commercial driver's license or commercial learner's permit required to permit the individual to operate certain types of commercial motor vehicles.

~~["Nonresident]~~ "Non-domiciled commercial driver's license" means a commercial driver's license issued by a state under either of the following two conditions:

- (1) To an individual domiciled in a foreign country meeting the requirements of Title 49, Code of Federal Regulations ~~[Section]~~ section 383.23(b)(1); or
- (2) To an individual domiciled in another state meeting the requirements of Title 49, Code of Federal Regulations ~~[Section]~~ section 383.23(b)(2).

"Serious traffic violation" means conviction of any of the following offenses when operating a commercial motor vehicle, except for weight, defect, and parking violations:

- (1) Excessive speeding involving any single offense for any speed of fifteen miles per hour or more above the posted speed limit;
- (2) Reckless driving or driving a commercial motor vehicle in disregard of the safety of persons or property, including but not limited to offenses of driving a commercial motor vehicle in wilful or wanton disregard for the safety of persons or property;
- (3) Improper or erratic traffic lane changes;
- (4) Following a vehicle ahead too closely;
- (5) A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal traffic accident;
- (6) Driving a commercial motor vehicle without obtaining a commercial learner's permit or a commercial driver's license;
- (7) Driving a commercial motor vehicle without a commercial learner's permit or a commercial driver's license in the driver's possession; provided that this paragraph shall not apply to a citation issued under, or an offense disposed of pursuant to section 286-116(a) or a substantially similar provision of law in another state;
- (8) Driving a commercial motor vehicle without the proper class or endorsements of commercial driver's license or commercial learner's permit for the specific vehicle group being operated or for the passengers or type of cargo being transported; ~~[or]~~
- (9) Texting while driving in violation of a state or county law or ordinance~~[-]; or~~
- (10) Using a mobile electronic device in violation of a state or a county law or ordinance.

"Texting" means manually entering alphanumeric text into, or reading text from, an electronic device, and includes short message service; e-mailing; instant messaging; a command or request to access a world wide web page; press-

ing more than a single button to initiate or terminate a voice communication using a mobile telephone; and engaging in any other form of electronic text retrieval or entry, for present or future communication.

“Texting” does not include:

- (1) Reading, selecting, or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a phone call or using voice commands to initiate or receive a telephone call;
- (2) Inputting, selecting, or reading information on a global positioning system or navigation system[;] or pressing a single button to initiate or terminate a voice communication using a mobile telephone; or
- (3) Using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smart phones, citizens band radios, and music players, for a purpose that is not otherwise prohibited ~~[in this part].~~”

SECTION 4. Section 286-233, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any driver of a commercial motor vehicle holding a commercial driver’s license or a commercial learner’s permit issued by this State who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in any other state, or federal, provincial, territorial, or municipal laws of Canada or Mexico, other than parking violations, in any type of motor vehicle, shall notify the examiner of drivers in the manner specified by the director within thirty days of the date of conviction. Any driver of a commercial motor vehicle holding a commercial driver’s license or a commercial learner’s permit issued by this State, who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in this or any other state, or federal, provincial, territorial, or municipal laws of Canada or Mexico, other than parking violations, in any type of motor vehicle, shall notify the person’s current employer in writing of the conviction within thirty days of the date of conviction.”

SECTION 5. Section 286-234, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) No employer shall knowingly allow, require, permit, or authorize a driver to drive a commercial motor vehicle:

- (1) During any period in which the driver has a driver’s license or permit suspended, revoked, or canceled by a state, has lost the privilege to drive a commercial motor vehicle in a state, or has been disqualified from driving a commercial motor vehicle;
- (2) During any period in which the driver has more than one driver’s license;
- (3) During any period in which the driver, or the commercial motor vehicle the driver is driving, or the motor carrier operation, is subject to an out-of-service order; ~~[or]~~
- (4) During any period in which the driver does not have a current commercial learner’s permit or commercial driver’s license or does not have the proper class, restrictions, and endorsements; or
- [(4)] (5) In violation of a federal, state, or local law or regulation pertaining to railroad-highway grade crossings.”

SECTION 6. Section 286-235, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No person shall drive a commercial motor vehicle unless the person holds a valid commercial driver’s license and valid applicable endorsements and restrictions for the vehicle the person is driving, except when driving under a commercial [~~driver’s instruction~~] learner’s permit and accompanied by the holder of a valid commercial driver’s license for the vehicle being driven.”

SECTION 7. Section 286-236, Hawaii Revised Statutes, is amended to read as follows:

“§286-236 Commercial driver’s license qualification standards. (a) No person shall be issued a commercial driver’s license unless that person meets the qualification standards of Title 49 Code of Federal Regulations, Part 391, Subparts B and E, has passed a knowledge and driving skills test for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in Title 49 Code of Federal Regulations, Part 383, Subparts G and H, is domiciled in this State as defined in Title 49 Code of Federal Regulations, Part 383.5, and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570, Title XII, in addition to other requirements imposed by state law or federal regulation. The tests shall be prescribed by the director and administered by the respective county examiner of drivers. The test examiners shall communicate with the applicant only in English during the skills test. As of January 30, 2012, the examiner of drivers shall verify that the medical certification status of a driver who self-certified according to Title 49 Code of Federal Regulations section 383.71(a) (1) (ii) (A), non-excepted interstate, is certified. If a driver submits a current medical examiner’s certificate, the examiner of drivers shall date-stamp the certificate and post all required information to the commercial driver’s license information system pursuant to Title 49 Code of Federal Regulations section 383.73(a)(5) and in accordance with Title 49 Code of Federal Regulations section 383.73(j). A person who is not physically qualified to drive under Title 49 Code of Federal Regulations section 391.41(b)(1), (2), or (3) and who is otherwise qualified to drive a motor vehicle may be granted an intrastate waiver by the director. The process for granting intrastate waivers shall be the same as that for interstate waivers in Title 49 Code of Federal Regulations section 391.49, except that the intrastate waiver requests shall be submitted to the director; provided that the director shall adopt rules under chapter 91 to establish a screening process, including approval by a licensed physician, for granting an intrastate waiver to persons who are not physically qualified under Title 49 Code of Federal Regulations section 391.41(b)(3).

(b) Pursuant to chapter 91, the director may authorize a third party examiner to administer the driving skills test specified in this section, provided:

- (1) The test is the same as that administered by the respective county examiners of drivers; and
- (2) The third party examiner has entered into an agreement with the State which complies with requirements of Title 49 Code of Federal Regulations, [Section] section 383.75.

(c) The examiner of drivers may waive the driving skills test specified in this section for a commercial driver’s license applicant who meets the requirements of Title 49 Code of Federal Regulations [Section] section 383.77 or 383.123(b).

(d) A commercial driver’s license or commercial [~~driver’s instruction~~] learner’s permit, including a provisional or temporary license or permit, shall not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person’s driver’s license is sus-

pending, revoked, or canceled in any state; or while the person holds a driver's license issued by any other state unless the person first surrenders that license.

(e) A commercial ~~[driver's instruction]~~ learner's permit may be issued to an individual who holds a valid driver's license, is at least eighteen years of age, meets the qualification standards of Title 49 Code of Federal Regulations, Part 391, Subparts B and E, and has passed the written tests required for the desired class of a commercial driver's license.

(f) The commercial ~~[driver's instruction]~~ learner's permit shall not be valid for a period in excess of ~~[one year.]~~ one hundred eighty days. When driving a commercial motor vehicle, the holder of a commercial ~~[driver's instruction]~~ learner's permit shall be accompanied by a person ~~[licensed]~~ with a valid commercial driver's license to operate that category of commercial motor vehicle[-] with the proper endorsements. The licensed person shall occupy the seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle. The commercial learner's permit may be [reissued after] renewed no more than an additional one hundred eighty days without requiring the commercial learner's permit holder to retake the general or endorsement knowledge tests, and the applicant requalifies meeting the requirements of subsection (e). The commercial learner's permit holder is eligible to take the commercial driver's license skills test no earlier than fourteen days after obtaining the permit.

(g) The examiner of drivers may waive the knowledge and skills tests specified in this section for any person who is at least twenty-one years of age and who possesses a valid commercial driver's license issued by any state of the United States, Mexico, or a province of Canada that issues licenses in accordance with the minimum federal standards for the issuance of commercial driver's licenses. The examiner of drivers shall accept the test scores of a Hawaii commercial learner's permit holder who completes training in another state in the United States and is tested in compliance with federal motor carrier safety regulations by that state in association with the training. The testing state shall electronically transmit in a secure manner the skills test results directly to the examiner of drivers, and if the applicant passed, and meets all other requirements, a Hawaii commercial driver's license shall be issued. To retain a hazardous materials endorsement, the applicant shall pass the knowledge test for a hazardous materials endorsement and be determined by the federal Transportation Security Administration not to pose a security risk warranting denial of the endorsement.

(h) Every applicant shall successfully complete the commercial driver's license general knowledge test before being issued a commercial learner's permit. A driver holding a valid commercial driver's license who seeks an upgrade for which a skills test is required shall also pass the appropriate knowledge test prior to obtaining a commercial learner's permit."

SECTION 8. Section 286-238, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The application for a commercial driver's license or commercial ~~[driver's instruction]~~ learner's permit shall include the following with respect to the applicant:

- (1) The full name and current mailing, residential, and business addresses;
- (2) A physical description including sex and height;
- (3) Date of birth;
- (4) Social security number;
- (5) Signature;

- (6) Color photograph[;], digitized color image, or black and white laser-engraved photograph of the driver;
- (7) Certifications including those required by Title 49 Code of Federal Regulations[;§] section 383.71(a), except that this certification applies to both intrastate and interstate drivers;
- (8) The names of all states where the applicant has previously been licensed to drive any type of motor vehicle during the previous ten years; and
- (9) Any other information required by section 286-111.

The applicant shall produce proof of residency to show the applicant's state of domicile as defined in Title 49 Code of Federal Regulations [~~Part~~] section 383.5."

SECTION 9. Section 286-239, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) The commercial driver's license shall be marked "CDL" and, to the maximum extent practicable, shall be tamper-proof and include, but not be limited to, the following with respect to the licensee:

- (1) The name and residence address;
- (2) A color photograph[;], digitized color image, or black and white laser-engraved photograph of the driver;
- (3) A physical description including sex and height;
- (4) Date of birth;
- (5) A commercial driver's license number that shall not be the licensee's social security number;
- (6) Signature;
- (7) The class or type of commercial motor vehicle or vehicles [~~which~~] that may be driven together with any endorsements or restrictions;
- (8) The name of this State; and
- (9) The issuance and expiration dates of the license."

2. By amending subsection (c) to read:

"(c) Commercial drivers' licenses may be issued with any one or more of the following endorsements and restrictions:

- (1) "H" - Authorizes the driver to drive a vehicle transporting hazardous materials;
- (2) [~~"K"~~] "L" - Restricts the driver to vehicles not equipped with air brakes;
- (3) "T" - Authorizes driving double and triple trailers;
- (4) "P" - Authorizes driving vehicles carrying passengers;
- (5) "N" - Authorizes driving tank vehicles;
- (6) "X" - Represents a combination of hazardous materials and tank vehicle endorsements;
- (7) "S" - Authorizes driving school buses;
- (8) "V" - Indicates there is information about a medical variance on the commercial driver's license information system driver record; [~~and~~]
- (9) [~~"W"~~] "K" - Restricts the driver from operating in interstate commerce as defined in Title 49 Code of Federal Regulations section 390.5[;];
- (10) "Z" - Restricts the driver to vehicles not equipped with full air brakes;
- (11) "E" - Restricts the driver to vehicles not equipped with any manual transmission;
- (12) "O" - Restricts the driver to non-tractor trailer commercial motor vehicles;

- (13) “M” – Restricts the driver from operating a class A passenger vehicle; and
- (14) “N” – Restricts the driver from operating a class A and B passenger vehicle.”

SECTION 10. Section 286-240, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:

- (1) Driving a motor vehicle under the influence of alcohol, a controlled substance, or any drug that impairs driving ability;
- (2) Driving a commercial motor vehicle while the alcohol concentration of the driver’s blood is 0.04 or more grams of alcohol per two hundred ten liters of breath or 0.04 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood;
- (3) Refusing to submit to a test to determine the driver’s alcohol concentration while driving a motor vehicle as required under sections 286-243 and 291E-11;
- (4) Using a motor vehicle in the commission of any felony;
- (5) Leaving the scene of an accident involving the motor vehicle driven by the person;
- (6) Unlawful transportation, possession, or use of a controlled substance while on duty;
- (7) Driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver’s commercial driver’s license or commercial learner’s permit is revoked, suspended, or canceled, or the driver is otherwise disqualified from operating a commercial motor vehicle; or
- (8) Causing a fatality through the operation of a commercial motor vehicle, including through the commission of the crimes of manslaughter and negligent homicide in any degree.”

2. By amending subsection (f) to read:

“(f) The examiner of drivers shall disqualify any person from driving a commercial motor vehicle or from resubmitting an application for a period of not less than sixty days if the examiner of drivers finds that a commercial driver’s license or a commercial learner’s permit holder or applicant for a commercial driver’s license or commercial learner’s permit has falsified information or failed to report or disclose required information either before or after issuance of a commercial driver’s license[-] or a commercial learner’s permit.”

SECTION 11. Section 286-241, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) After disqualifying a person, or suspending, revoking, canceling, or marking a medical certification status as not-certified for a commercial driver’s license or a commercial learner’s permit, the examiner of drivers shall update all records to reflect that action within ten days. Any disqualification imposed in accordance with section 286-240(j) and transmitted by the Federal Motor Carrier Safety Administration shall become a part of the driving record. After suspending, revoking, or canceling a nonresident commercial driver’s license or commercial learner’s permit, the examiner of drivers shall notify the licensing authority of the state that issued the commercial driver’s license or commercial learner’s permit within ten days. The notification shall include information regarding any

disqualification and the violation or violations that resulted in the disqualification, revocation, suspension, or cancellation.”

SECTION 12. Section 286-241.4, Hawaii Revised Statutes, is amended by amending subsections (a) through (c) to read as follows:

“(a) The examiner of drivers may suspend, revoke, cancel, mark the medical certification status as not-certified, or downgrade any commercial driver’s license or commercial learner’s permit without a hearing when the examiner of drivers has probable cause to believe that the licensee or permittee is disqualified under section 286-240.

(b) The examiner of drivers shall deny or suspend any commercial driver’s license or commercial learner’s permit pursuant to the terms of [§] 576D-13 when the examiner of drivers receives certification from the child support enforcement agency that the licensee or permittee is not in compliance with an order of support as defined in section 576D-1 or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. Both the licensee or permittee and the licensee’s or permittee’s employer shall be notified of the denial or suspension.

(c) Upon suspension, revocation, or cancellation of the commercial driver’s license or commercial learner’s permit, the driver’s license or learner’s permit shall be surrendered to the examiner of drivers by the licensee or permittee.”

SECTION 13. Section 286-241.5, Hawaii Revised Statutes, is amended to read as follows:

“§286-241.5 Notification and hearing. When the examiner of drivers suspends, revokes, or cancels a commercial driver’s license or a commercial learner’s permit under section 286-241.4(a), the examiner of drivers shall immediately notify the licensee or permittee and afford the licensee or permittee an opportunity for a hearing.”

SECTION 14. Section 286-244, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) Whenever a person who holds a commercial driver’s license or a commercial learner’s permit from another state is convicted of a violation of any state or county law relating to motor vehicle traffic control, other than a parking violation, in any type of vehicle, the examiner of drivers shall notify the licensing or permitting entity in the state where the driver is licensed or permitted of this conviction within the time period specified in subsection (c).

(b) Whenever a person who does not hold a commercial driver’s license or a commercial learner’s permit but is licensed to drive by another state is convicted of a violation in a commercial motor vehicle of any state or county law relating to motor vehicle traffic control, other than a parking violation, the examiner of drivers shall notify the licensing entity in the state where the driver is licensed of this conviction within the time period specified in subsection (c).”

SECTION 15. Section 286-245, Hawaii Revised Statutes, is amended by amending subsections (a) through (c) to read as follows:

“(a) Whenever a person is convicted of a moving traffic violation based on a statute, ordinance, or rule, fails to appear for a hearing, trial, or other court or administrative proceeding on the moving traffic violation, or fails to pay a fine or court cost ordered for a moving violation, the state judiciary shall forward to the examiner of drivers the record of the conviction. The record of conviction shall include whether the offender was operating a commercial motor vehicle at the time of the offense, whether the offender was transporting hazardous materi-

als requiring placarding under Title 49 Code of Federal Regulations Part 172, Subpart F, the citation date, the conviction date, the citation number, the court in which the conviction occurred, and the offenses for which the person has been convicted. No record of conviction transmitted and maintained in the statewide traffic records system shall be used for purposes other than the licensing of drivers, including any record of:

- (1) Driving a motor vehicle under the influence of alcohol, a controlled substance, or any drug that impairs driving ability;
 - (2) Driving a commercial motor vehicle while the alcohol concentration of the driver's blood is 0.04 [~~per cent or more by weight;~~] or more grams of alcohol per two hundred ten liters of breath or 0.04 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood;
 - (3) Refusing to submit to a test to determine the driver's alcohol concentration while driving a motor vehicle as required under sections 286-243 and 291E-11;
 - (4) Using a motor vehicle in the commission of any felony;
 - (5) Leaving the scene of an accident involving the motor vehicle driven by the person;
 - (6) Unlawful transportation, possession, or use of a controlled substance while on duty;
 - (7) Driving a commercial motor vehicle if, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial learner's permit or commercial driver's license has been revoked, suspended, or canceled, or the driver has been otherwise disqualified from operating a commercial motor vehicle; or
 - (8) Causing a fatality through the operation of a commercial motor vehicle, including in the commission of the crimes of manslaughter and negligent homicide in any degree.
- (b) Within ten days of an in-state conviction and within ten days of the receipt of notice of an out-of-state conviction, the examiner of drivers shall record and maintain as part of the driver's record:
- (1) All convictions, disqualifications, and other licensing actions for violations in this State and out-of-state, of any law relating to motor vehicle traffic control, other than a parking violation, committed in any type of vehicle, by a holder of a commercial learner's permit or a commercial driver's license; and
 - (2) All convictions, disqualifications, and other licensing actions for violations in this State and out-of-state, of any law relating to motor vehicle traffic control, other than a parking violation, committed while the driver was operating a commercial motor vehicle and was required to have a commercial learner's permit or commercial driver's license.
 - (c) No commercial learner's permit or commercial driver's license driver's conviction for any violation in any type of motor vehicle of a state or local traffic control law, except a parking violation, shall be expunged or subject to deferred imposition of judgment nor shall an individual be allowed to enter into a diversion program that would prevent the conviction from appearing on the driver's driving record, whether the driver was convicted for an offense committed in this State or another state."

SECTION 16. Section 286-248, Hawaii Revised Statutes, is amended to read as follows:

“§286-248 Reciprocity. Notwithstanding any law to the contrary, a person may drive a commercial motor vehicle if the person has a commercial driver’s license or a non-domiciled commercial learner’s permit issued by any state, Mexico, or province or territory of Canada that issues licenses in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver’s licenses, for training purposes, and is accompanied by the holder of a valid commercial driver’s license for the vehicle being driven, if the person’s driver’s license or commercial learner’s permit is not suspended, revoked, or canceled; and if the person is not disqualified from driving a commercial motor vehicle, or subject to an out-of-service order.”

SECTION 17. Section 286-249, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person who drives a commercial motor vehicle in the State without a valid commercial driver’s license or commercial learner’s permit, or while the person’s driving privileges are suspended, revoked, or canceled, or while disqualified from driving a commercial motor vehicle, shall be:

- (1) Disqualified from driving a commercial motor vehicle for a period of not less than one year and up to life;
- (2) Fined not less than \$500 but not more than \$1,000; and
- (3) Imprisoned not more than one year;

provided that the court shall have discretion to impose either a fine or imprisonment, or both.”

SECTION 18. Section 286-2, Hawaii Revised Statutes, is amended by deleting the definition of “tank vehicle”.

[~~““Tank vehicle” means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include but are not limited to cargo tanks and portable tanks, as defined in Title 49 Code of Federal Regulations Part 171. This definition does not include portable tanks having a rated capacity under one thousand gallons.”]~~

SECTION 19. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 20. This Act shall take effect on July 1, 2013.

(Approved June 14, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 115

S.B. NO. 1209

A Bill for an Act Relating to Highways.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 264-101, Hawaii Revised Statutes, is amended to read as follows:

“§264-101 Vending from highways prohibited. (a) No person shall park or place a vehicle or structure wholly or partly on any highway for the purpose of selling the vehicle or structure or of selling therefrom or therein any article, service, or thing, thereby creating a hazardous condition or a public nuisance or in reckless disregard of the risk of creating a hazardous condition or public nuisance. The department of transportation may remove or require the immediate removal of the vehicle or structure from the highway.

(b) The director of transportation, in the case of state highways, may, upon application in writing, issue a written permit, subject to any terms and conditions imposed by the director, authorizing the applicant to vend in the air-space, as that term is defined in title 23 Code of Federal Regulations section 710.105, as amended, of the State's interstate highway system.

~~[(b)]~~ (c) For the purposes of this section, “highway” means the entire width, including the berm or shoulder of a public highway as defined in section 264-1.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 2013.)

ACT 116

H.B. NO. 951

A Bill for an Act Relating to the Service of Process.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 353C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§353C- Service of process; list. (a) For service of process, the director shall maintain a list of independent civil process servers to process:

- (1) Orders to show cause pursuant to chapters 603, 604, and 633;
- (2) Garnishment pursuant to chapter 652;
- (3) Writs of replevin and attachment pursuant to chapter 634;
- (4) Writs of possession pursuant to chapters 501 and 666;
- (5) Orders for examination pursuant to chapter 636; and
- (6) Writs of attachment or execution pursuant to chapter 651.

(b) Any independent civil process server may submit the server's name to the director to be placed on the list; provided that a person shall not be placed on the list if the person:

- (1) Is serving a criminal sentence;
- (2) Has been convicted of a crime within the previous ten years;
- (3) Is required to register as a sex offender; or
- (4) Is subject to any other legal restriction, including a temporary restraining order, that prevents the person from serving process.

(c) The department, the State, and the agencies, officers, and employees of the department or the State shall not be responsible or liable for the actions of any independent civil process servers on the list. The maintenance of the list shall not create a private cause of action against the department, the State, or the agencies, officers, and employees of the department or the State.

(d) Placement of a person's name on the list shall not make the person a law enforcement officer, sheriff or deputy sheriff, or an employee or agent of the State."

SECTION 2. Section 501-154, Hawaii Revised Statutes, is amended to read as follows:

"§501-154 Writ of possession, service, time limit for registration. When in any action in the nature of an action of ejectment an execution or writ of possession has been issued and served by the ~~[officer]~~ sheriff, deputy sheriff, police officer, or independent civil process server from the department of public safety's list under section 353C-, the ~~[officer]~~ sheriff, deputy sheriff, police officer, or independent civil process server shall cause a copy of the writ, with a return of the ~~[officer's]~~ doings of the sheriff, deputy sheriff, police officer, or independent civil process server thereon, to be filed and registered within three months after the service and before the return of the writ into the clerk's office. The plaintiff, in case the judgment was that the plaintiff was entitled to an estate in fee simple in the demanded premises, or in any part thereof, and for which execution or writ of possession issued, is thereupon entitled to the entry of a new certificate of title."

SECTION 3. Section 603-29, Hawaii Revised Statutes, is amended to read as follows:

"§603-29 Order to show cause. Whenever a complaint has been filed in circuit court alleging leased or rented personal property the value of which is \$5,000 or more, has been retained by the defendant fourteen days after the termination of the lease or rental contract, either by passage of time or by reason of any default under the terms and conditions of the lease or rental contract, the plaintiff may petition the court for an order to show cause.

Upon the filing of the petition with a copy of the lease or rental contract and an affidavit sworn to by the plaintiff or some competent affiant setting forth a statement of facts sufficient to show the termination of the lease or rental contract, the court may issue an order directing the defendant to either return the leased or rented personal property to the plaintiff or to appear and show cause for the possession at such time as the court shall direct but not later than ten days from the date of service of the order to show cause. The order to show cause shall also provide that if the leased or rented personal property is not returned to the plaintiff prior to the hearing, the defendant shall, if reasonably feasible, produce the property at the hearing. If, at the hearing, it is proved to the satisfaction of the court that the plaintiff is entitled to possession of the leased or rented personal property, it shall issue an order directed to the sheriff, deputy sheriff, ~~[or person authorized by the rules of court,]~~ police officer, or independent civil process server from the department of public safety's list under section 353C- commanding the sheriff, deputy sheriff, ~~[or other person authorized by the rules of court]~~ police officer, or independent civil process server to seize the personal property therein described and to deliver the same to the plaintiff or the plaintiff's agent. Service of the order to show cause shall be as provided by law or rule of court for cases in the circuit courts, or by registered mail or by certified mail with return receipt showing delivery within the circuit."

SECTION 4. Section 604-6.2, Hawaii Revised Statutes, is amended to read as follows:

“§604-6.2 Order to show cause. Upon the filing of a complaint with a copy of a lease or rental contract and an affidavit sworn to by the plaintiff or some competent affiant setting forth a statement of facts sufficient to show that the leased or rented personal property has been in the defendant’s possession at least fourteen days after the termination of the lease or rental contract, either by passage of time or by reason of any default under the terms and conditions of the lease or rental contract, the court may issue an order directing the defendant to either return the leased or rented personal property to the plaintiff or to appear and show cause for the possession at such time as the court shall direct, but not later than ten days from the date of service of the order to show cause. The order to show cause shall also provide that, if the leased or rented personal property is not returned to the plaintiff prior to the hearing, the defendant shall, if reasonably feasible, produce the property at the hearing. If, at the hearing, it is proved to the satisfaction of the court that the plaintiff is entitled to possession of the leased or rented personal property, it shall issue an order directed to the sheriff, deputy sheriff, ~~[or other person authorized by the rules of court]~~ police officer, or independent civil process server from the department of public safety’s list under section 353C- commanding the sheriff, deputy sheriff, ~~[or a person authorized by the rules of court]~~ police officer, or independent civil process server to seize the personal property therein described and to deliver the same to the plaintiff or the plaintiff’s agent. Service of the order to show cause shall be as provided by law or rule of court for cases in the district courts, or by registered mail or by certified mail with return receipt showing delivery within the State.”

SECTION 5. Section 607-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Fees of sheriff, deputy sheriff, police officer, or ~~[other person authorized by the rules of court]~~ independent civil process server from the department of public safety’s list under section 353C- :

- (1) For serving any criminal summons, warrant, attachment, or other criminal process, \$30 effective July 1, 2001. This fee is payable to a sheriff, deputy sheriff, or police officer. Service of criminal summons, warrant, attachment, or other criminal process shall be made only by persons authorized to serve criminal summons ~~[in accordance with rules of court]~~.
- (2) For serving any civil summons, warrant, attachment, or other civil process, \$25 effective July 1, 2001.
- (3) For every copy of an attachment and inventory of the property attached, served upon the defendant, \$2.
- (4) For serving any execution, 12 cents for every \$1 collected up to \$500, and 7 cents for every \$1 over \$500.
- (5) For serving: subpoena, \$25; and subpoena duces tecum or garnish-see summons, \$15 effective July 1, 2001.
- (6) For every mile of travel, more than one, in serving any process, 40 cents; provided that:
 - (A) No allowance shall be made where the serving individual uses a conveyance furnished the serving individual by the State, or any political or municipal subdivision thereof;
 - (B) Where the serving individual serves more than one person in the course of one trip, the serving individual shall not charge, in the aggregate for all services, more than the mileage for the entire trip; and
 - (C) As far as practicable, in order to minimize the mileage fees for the service, the sheriff or ~~[other]~~ police chief of the serving po-

lice officers, or [other person authorized by the rules of court,] independent civil process servers, where service of process is to be made upon an island other than that upon which is situated the court issuing the process, shall cause the process to be transmitted to the sheriff, deputy sheriff, the chief of police[; a person authorized by the rules of court, or other serving individual], a police officer, or an independent civil process server upon the island of service, who shall make the service upon receipt of the process; and the service shall be valid, notwithstanding that the process may not be addressed to the individual actually making the service or to the individual's superior.

In lieu of any fee under this subsection, the fee may be an hourly rate of not less than \$50 per hour agreed upon in advance between the party requesting the service and the sheriff, deputy sheriff, police officer, or ~~[other person authorized by the rules of court]~~ independent civil process server performing the service."

SECTION 6. Section 607-8, Hawaii Revised Statutes, is amended by amending the title and subsection (a) to read as follows:

"§607-8 Fees of sheriff, deputy sheriff, police officer, serving or levying officer, or ~~[other person authorized by the rules of court in circuit court, intermediate appellate court, or supreme court.] independent civil process server.~~ (a) For all necessary travel in making the service, per mile for every mile more than one...40 cents provided that:

- (1) No allowance shall be made where the serving individual uses a conveyance furnished the serving individual by the State, or any political or municipal subdivision thereof;
- (2) Where the serving individual serves more than one person in the course of one trip, the serving individual shall not charge, in the aggregate for all services more than the mileage for the entire trip; and
- (3) As far as practicable, in order to minimize the mileage fees for the service, the sheriff or ~~[other]~~ chief of police of the serving police officers, or ~~[other person authorized by the rules of court where service of process is to be made upon an island other than that upon which is situated the court issuing the process,]~~ independent civil process server from the department of public safety's list under section 353C- shall cause the process to be transmitted to the sheriff, deputy sheriff, the chief of police, ~~[other person authorized by the rules of court, or other serving individual]~~ a police officer, or an independent civil process server upon the island of service who shall make the service upon receipt of the process; and the service shall be valid, notwithstanding that the process may not be addressed to the individual actually making the service or to the individual's superior.

For serving criminal summons or any other criminal process except a subpoena, for each person served therewith \$30 effective July 1, 2001. Service of criminal summons or any other criminal process shall be made only by persons authorized to serve criminal summons ~~[in accordance with rules of court]~~.

For serving civil summons or any other civil process, except a subpoena or a garnishee summons, for each person served therewith \$25 effective July 1, 2001.

For serving: subpoena, for each person, \$25; and subpoena duces tecum or garnishee summons, for each person \$15 effective July 1, 2001.

For returning as unserved after due and diligent search any process when it has been found that the person to be served has left the State \$5 effective July 1, 2001.

For serving any execution or other process for the collection of money, for every dollar collected up to \$1,000..... 5 cents.

And for every dollar over \$1,000..... 2-1/2 cents.

All fees paid to any printer for publishing an advertisement of the sale of any property.

For every bill of sale \$2.

For executing and acknowledging a deed pursuant to a sale of real estate to be paid by the grantee in the deed..... \$8.

For drawing any bond required by law \$2.

For serving writ of possession or restitution, putting any person entitled into the possession of premises, and removing a tenant pursuant to order of court \$25.

Together with all necessary expenses incurred by the individual serving the writ, incident to the eviction.

For selling any property on an order from the court other than an execution, the same allowance as for service and sales by execution.

The fees for service of executions, attachments, and collection of judgments, together with all costs incurred after judgment rendered, not included in the judgment, in all courts of the State, shall be collected in addition to the sum directed to be levied and collected in the writ.

In lieu of any fee under this subsection, the fee may be an hourly rate of not less than \$50 per hour agreed upon in advance between the party requesting the service and the sheriff, deputy sheriff, police officer, or ~~[other person authorized by the rules of court]~~ independent civil process server performing the service."

SECTION 7. Section 633-8, Hawaii Revised Statutes, is amended to read as follows:

"§633-8 Order to show cause. Upon the filing of a complaint with a copy of a lease or rental contract and an affidavit sworn to by the plaintiff or some competent affiant setting forth a statement of facts sufficient to show that the leased or rented personal property has been in the defendant's possession at least fourteen days after the termination of the lease or rental contract, either by passage of time or by reason of any default under the terms and conditions of the lease or rental contract, the court may issue an order directing the defendant to either return the leased or rented personal property to the plaintiff or to appear and show cause for the possession at such time as the court shall direct, but not later than five days from the date of service of the order to show cause. The order to show cause shall also provide that, if the leased or rented personal property is not returned to the plaintiff prior to the hearing, the defendant shall, if reasonably feasible, produce the property at the hearing. If, at the hearing, it is proved to the satisfaction of the court that the plaintiff is entitled to possession of the leased or rented personal property, it shall issue an order directed to the sheriff, deputy sheriff, ~~[or other person authorized by the rules of court]~~ police officer, or independent civil process server from the department of public safety's list under section 353C- commanding the sheriff, deputy sheriff, ~~[or other person authorized by the rules of court]~~ police officer, or independent civil process server to seize the personal property therein described and to deliver the same to the plaintiff or the plaintiff's agent. Service of the order to show cause shall be

as provided by law or rule of court for cases in the district courts, or by registered mail or by certified mail with return receipt showing delivery within the circuit."

SECTION 8. Section 634-11, Hawaii Revised Statutes, is amended to read as follows:

"§634-11 Interpleader; application for order by sheriff [or other person authorized by the rules of court], deputy sheriff, police officer, or independent civil process server. When, in the execution of process against goods and chattels issued by or under the authority of the courts of the State, by reason of claims made to such goods and chattels by assignees of bankrupts and other persons not being the parties against whom such process had issued, whereby the sheriff, deputy sheriffs, [other] police officers, or [persons authorized by the rules of court] independent civil process servers from the department of public safety's list under section 353C- are exposed to the hazard and expense of actions, any such claim shall be made to any goods or chattels taken or intended to be taken in execution under any such process or to the proceeds or value thereof, it shall be lawful for the court, out of which the execution shall have issued, or any judge thereof, upon application of the sheriff, deputy sheriff, [other] police officer, or [other person authorized by the rules of court,] independent civil process server made before or after the return of such process, and as well before as after any action brought against the sheriff, deputy sheriff, [other] police officer, or [other person authorized by the rules of court,] independent civil process server to call before it or the judge by rule, order, or summons, as well the party issuing such process as the party making the claim. Thereupon the court or judge shall, for the adjustment of the claims and the relief and protection of the sheriff, deputy sheriff, [other] police officer, or [other person authorized by the rules of court,] independent civil process server, make such rules, orders, and decisions as shall appear to be just according to the circumstances of the case. The costs of all such proceedings shall be in the discretion of the court or judge."

SECTION 9. Section 634-12, Hawaii Revised Statutes, is amended to read as follows:

"§634-12 Sale of property seized on execution, when. When goods or chattels have been seized in execution by the sheriff, deputy sheriff, [other] a police officer[, or other person authorized by the rules of court], or an independent civil process server from the department of public safety's list under section 353C- under process of any court, and some third person claims to be entitled under a bill of sale, chattel mortgage, or otherwise, to the goods and chattels by way of security for a debt, the court or a judge may order a sale of the whole or part thereof, upon such terms as to the payment of the whole or part of the secured debt or otherwise as it or the judge shall think fit; and may direct the application of the proceeds of sale in such manner and upon such terms as to the court or judge may seem just."

SECTION 10. Section 634-22, Hawaii Revised Statutes, is amended to read as follows:

"§634-22 Return. In all cases where any process or order of a court is served by any officer of the court or of the police force or the sheriff, deputy sheriff, an independent civil process server from the department of public safety's list under section 353C-, or any investigator appointed and commissioned by the director of commerce and consumer affairs pursuant to section 26-9(j), a

record thereof shall be endorsed upon the back of the process, complaint, order, or citation. The record shall state the name of the person served and the time and place of service and shall be signed by the sheriff, deputy sheriff, police officer, independent civil process server, or investigator making the service. If the ~~[officer]~~ sheriff, deputy sheriff, police officer, independent civil service process server, or investigator fails to make service, the ~~[officer]~~ sheriff, deputy sheriff, police officer, independent civil process server, or investigator in like manner, shall endorse the reason for the ~~[officer's]~~ sheriff, deputy sheriff, police officer, independent civil process server, or investigator's failure and sign this record. When service is made by a person specially appointed by the court, or ~~[a person authorized by the rules of court, the person]~~ an independent civil process server, that person shall make declaration or affidavit of that service.

The record ~~[or the]~~ declaration, or affidavit shall be prima facie evidence of all it contains, and no further proof thereof shall be required unless either party desires to examine the sheriff, deputy sheriff, police officer ~~[or person]~~, independent civil process server, or investigator making service, in which case the sheriff, deputy sheriff, police officer ~~[or person]~~, independent civil process server, or investigator shall be notified to appear for examination."

SECTION 11. Section 634-29, Hawaii Revised Statutes, is amended to read as follows:

"[§634-29] In case of attachment, etc., of real property. In all cases of attachment, sequestration, or injunction of real property, the sheriff, deputy sheriff, police officer, or independent civil process server from the department of public safety's list under section 353C- serving the writ shall, in addition to personal delivery of a copy thereof to the defendant, post upon the premises a copy of the process, and a notice of the day and hour when attached, sequestered, or enjoined, and shall also give notice thereof in a newspaper or newspapers suitable for the advertisement of judicial proceedings. But in all cases where a writ of attachment is issued in accordance with chapter 651 relating to attachments, and the defendant in attachment was never a resident of the State or has departed from the State or secretes oneself so that the writ of attachment cannot be personally served upon the defendant, personal service of the writ upon the defendant may be dispensed with. All after-leases, mortgages, sales, devises, assignments, trusts, or other conveyances of the property, until the dissolution of the process, shall be void in law as against the plaintiff in such cases."

SECTION 12. Section 651-1, Hawaii Revised Statutes, is amended to read as follows:

"§651-1 General provisions. (a) This chapter shall apply to circuit and district courts. A judge of any court of record may make any order at chambers which may by the provisions of this chapter be made by the court in term time. When the proceedings are before a district judge, the judge shall be regarded as the clerk of the court for all purposes contemplated herein. The phrase "police officer", as used in this chapter, means the director of public safety or the director's duly authorized representative, any chief of police or subordinate police officer, or ~~[a person authorized by the rules of court]~~ an independent civil process server on the list maintained by the department of public safety pursuant to section 353C- . Nothing in this chapter shall be construed to permit a district judge to issue a writ of attachment to be served out of the circuit in which the judge's court is situated, or to permit an attachment of real estate, or any interest therein, under a writ issued by a district court judge.

(b) The department of public safety, the State, and the agencies, officers, and employees of the department of public safety or the State shall not be responsible or liable for the actions of any independent civil process servers on the list maintained by the department of public safety pursuant to section 353C-. The maintenance of the list pursuant to section 353C- shall not create a private cause of action against the department of public safety, the State, or the agencies, officers, and employees of the department of public safety or the State.

(c) Nothing in this chapter shall be construed to make an independent civil process server a law enforcement officer, sheriff, or deputy sheriff, or an employee or agent of the department of public safety or the State."

SECTION 13. Section 652-1.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as provided in subsection (e), any creditor desiring to secure a garnishment process before judgment shall attach the creditor's petition for process, summons, and direction to the following documents:

- (1) An application, directed to the court to which such action is made returnable, for garnishee process to issue under section 652-1(a);
- (2) An affidavit sworn to by the creditor or some competent affiant setting forth a statement of facts sufficient to show that probable validity exists to sustain the validity of the creditor's claim;
- (3) An order that a hearing be held before the court or a judge thereof to determine whether or not the garnishee process should be granted and that notice of such hearing be given to the defendant debtor; and
- (4) A summons directed to ~~[a proper officer]~~ the sheriff, deputy sheriff, a police officer, or an independent civil process server from the department of public safety's list under section 353C- commanding the ~~[officer]~~ sheriff, deputy sheriff, police officer, or independent civil process server to serve upon the debtor at least four days prior to the date of the hearing, pursuant to chapter 634, the application, a true and attested copy of the petition, summons, and direction, the affidavit, and the order and notice of hearing."

SECTION 14. Section 652-2, Hawaii Revised Statutes, is amended to read as follows:

"§652-2 Garnishee, rights, duties; collection by [levying officer:] sheriff, deputy sheriff, police officer, or independent civil process server. The garnishee shall, when summoned before judgment rendered against ~~[his]~~ the garnishee's principal, if ~~[he]~~ the garnishee desires, be admitted to defend ~~[his]~~ the garnishee's principal in the action.

If judgment is rendered in favor of the plaintiff, and likewise in all cases in which the garnishee is summoned after judgment, the garnishee fund, or such part thereof as may be sufficient for that purpose, shall be liable to pay the same. The plaintiff on praying out execution shall be entitled to have included in the execution an order directing the ~~[officer]~~ sheriff, deputy sheriff, police officer, or independent civil process server from the department of public safety's list under section 353C- serving the same to make demand of the garnishee for the goods and effects of the defendant secured in ~~[his]~~ the garnishee's hands, whose duty it will be to expose the same to be taken on execution, and also to make demand of the garnishee for the debt or wages secured in ~~[his]~~ the garnishee's hands or the moneys held by ~~[him]~~ the garnishee for safekeeping, or such part

thereof as may satisfy the judgment. It shall be the duty of the garnishee to pay the same. If the garnishee has in any manner disposed of the goods and effects or does not expose and subject the same to be taken on execution, or if the garnishee does not pay to the ~~[officer,]~~ sheriff, deputy sheriff, police officer, or independent civil process server when demanded, the debt or wages or moneys held for safekeeping, the garnishee shall be liable to satisfy the judgment out of ~~[his]~~ the garnishee's own estate, as ~~[his]~~ the garnishee's own proper debt, if the goods or effects or debt or wages or moneys held for safekeeping, be of sufficient value or amount and, if not, then to the value of the same; provided that every garnishee, whether summoned before or after judgment, shall be allowed to retain or deduct from the goods, effects, and credits of the defendant in ~~[his]~~ the garnishee's hands at the time of service all demands against the defendant of which ~~[he]~~ the garnishee could have availed ~~[himself]~~ the garnishee's self if ~~[he]~~ the garnishee had not been ~~[garnisheed,]~~ garnished, whether the same are at the time due or not, and whether by setoff on a trial or by setoff of judgments or executions between ~~[himself]~~ the garnishee and the defendant, and shall be liable only for the balance after adjustment of all mutual demands between ~~[himself]~~ the garnishee and the defendant; provided that in such adjustment no demands for unliquidated damages for wrongs or injuries shall be included, and that the judgment shall show the amount of any setoff.

No garnishee shall be liable to anyone for the nonpayment of any sum or for the nondelivery of any goods or effects when the garnishee in good faith believes, or has reason to believe, that garnishment or other process affects the same, though such be not the case, but this paragraph shall not supersede section 652-9 where the same are applicable."

SECTION 15. Section 652-2.5, Hawaii Revised Statutes, is amended to read as follows:

"[§652-2.5] Service on garnishee. Service of the copy upon the garnishee may be made in any of the manners here described, namely:

- (1) If the garnishee lives or has an office in the district in which process is issued, by the ~~[serving officer's]~~ sheriff, deputy sheriff, police officer, or independent civil process server from the department of public safety's list under section 353C- handing a copy to the garnishee in person or leaving it in the garnishee's office in charge of some deputy or clerk or other employees or attache of the office; or
- (2) If the garnishee lives in a district other than that in which the process was issued, by the ~~[serving officer's]~~ sheriff, deputy sheriff, police officer, or independent civil process server handing a copy to the garnishee in person, or by mailing it in a sealed envelope, registered or certified, postage prepaid, return receipt requested, and addressed to the garnishee's last known home or business address."

SECTION 16. Section 652-2.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In case of service upon the garnishee, the ~~[serving officer's]~~ certificate of service or, if by mail, a copy of the return receipt provided by the sheriff, deputy sheriff, police officer, or independent civil process server from the department of public safety's list under section 353C- shall be prima facie proof of the service."

SECTION 17. Section 654-2, Hawaii Revised Statutes, is amended to read as follows:

“§654-2 Bond. When the plaintiff desires the immediate delivery of the property, the plaintiff shall execute a bond to the defendant in possession of the property, and to all persons having an interest in the property, of such amount and with such sureties as are approved by the court, conditioned that the plaintiff will prosecute the plaintiff’s action to judgment without delay, and deliver the property to the defendant in possession or any other person, if such delivery is adjudged, and pay all costs and damages that may be adjudged against the plaintiff. Upon the filing of the verified complaint or affidavit with the bond and a motion for immediate consideration of the matter, the court shall forthwith inquire into the matter, ex parte or otherwise, as in its discretion it determines. If thereupon the court finds that a prima facie claim for relief has been established, it shall issue an order directed to the sheriff, ~~[or the] sheriff’s deputy, [or the] chief of police, [or] an authorized police officer of any county[, or a person authorized by the rules of court],~~ or an independent civil process server from the department of public safety’s list under section 353C- to take the property therein described and deliver the same to the plaintiff.

Copies of the verified complaint or affidavit, and, if a bond for immediate seizure has been filed, of the bond, and, if an order for the taking has been issued on an ex parte hearing, of the order, shall forthwith be served upon the defendant in possession and each person having or claiming a possessory interest in the property, in the same manner as is provided for service of summons unless the party to be served has appeared in the action, in which case service may be made in the same manner as is provided for service of papers other than the summons. In a proper case, either before or after issuance of an order for the taking, the required service may be combined with the publication of the summons, in which event the giving of notice of the substance of the proceeding shall be sufficient.

Upon the application of any party, the proceeding shall be advanced and assigned for hearing at the earliest possible date.”

SECTION 18. Section 666-11, Hawaii Revised Statutes, is amended to read as follows:

“§666-11 Judgment; writ of possession. If it is proved to the satisfaction of the court that the plaintiff is entitled to the possession of the premises, the plaintiff shall have judgment for possession, and for the plaintiff’s costs. Execution shall issue accordingly. The writ of possession shall issue to the sheriff, deputy sheriff, police officer[, or other person authorized by the rules of court of the circuit where the premises are situated], or independent civil process server from the department of public safety’s list under section 353C-, commanding the sheriff, deputy sheriff, police officer[, or other person authorized by the rules of court], or independent civil process server to remove all persons from the premises, and to put the plaintiff, or the plaintiff’s agent, into the full possession thereof.”

SECTION 19. Section 666-21, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If the tenant is unable to comply with the court’s order under subsection (a) in paying the required amount of rent to the court, the landlord shall have judgment for possession and execution shall issue accordingly. The writ of possession shall issue to the sheriff, deputy sheriff, police officer[, or other person authorized by the rules of court of the circuit where the premises are situated], or independent civil process server from the department of public safety’s list under section 353C-, ordering the sheriff, deputy sheriff, police officer[;

or other person authorized by the rules of court], or independent civil process server to remove all persons and possessions from the premises, and to put the landlord, or the landlord's agent, into full possession of the premises."

SECTION 20. The department of public safety shall convene a working group with the following objectives:

- (1) Defining and delineating the duties and responsibilities of process servers under its jurisdiction;
- (2) Creating a process of registration for process servers in the State;
- (3) Examining the licensing requirements of and jurisdictional concerns with the private process server industry in the State; and
- (4) Addressing other issues deemed relevant by the working group or by the department of public safety.

SECTION 21. The working group established under section 20 of this Act shall be composed of ten members as follows:

- (1) Two current process servers to be appointed by the governor;
- (2) Two current employees of the sheriff division to be appointed by the director of public safety;
- (3) Two employees of the judiciary to be appointed by the chief justice;
- (4) Two members of the Hawaii state bar association to be appointed by the president of the Hawaii state bar association;
- (5) A representative from the professional and vocational licensing division of the department of commerce and consumer affairs appointed by the director of commerce and consumer affairs; and
- (6) The director of public safety, as an ex officio member, to serve as chair.

SECTION 22. Members of the working group shall serve without compensation for their service on the working group.

SECTION 23. The working group established by this Act shall meet at least four times, and shall report its findings and recommendations to the legislature no later than twenty days prior to the convening of the regular session of 2014.

SECTION 24. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 25. This Act shall take effect upon its approval and shall be repealed on June 30, 2015; provided that:

- (1) Section 501-154, Hawaii Revised Statutes, in section 2 of this Act;
- (2) Section 603-29, Hawaii Revised Statutes, in section 3 of this Act;
- (3) Section 604-6.2, Hawaii Revised Statutes, in section 4 of this Act;
- (4) Section 607-4(d), Hawaii Revised Statutes, in section 5 of this Act;
- (5) The title and subsection (a) of section 607-8, Hawaii Revised Statutes, in section 6 of this Act;
- (6) Section 633-8, Hawaii Revised Statutes, in section 7 of this Act;
- (7) Section 634-11, Hawaii Revised Statutes, in section 8 of this Act;
- (8) Section 634-12, Hawaii Revised Statutes, in section 9 of this Act;
- (9) Section 634-22, Hawaii Revised Statutes, in section 10 of this Act;
- (10) Section 634-29, Hawaii Revised Statutes, in section 11 of this Act;
- (11) Section 651-1, Hawaii Revised Statutes, in section 12 of this Act;
- (12) Section 652-1.5(a), Hawaii Revised Statutes, in section 13 of this Act;
- (13) Section 652-2, Hawaii Revised Statutes, in section 14 of this Act;

- (14) Section 652-2.5, Hawaii Revised Statutes, in section 15 of this Act;
- (15) Section 652-2.6(a), Hawaii Revised Statutes, in section 16 of this Act;
- (16) Section 654-2, Hawaii Revised Statutes, in section 17 of this Act;
- (17) Section 666-11, Hawaii Revised Statutes, in section 18 of this Act; and
- (18) Section 666-21(b), Hawaii Revised Statutes, in section 19 of this Act,

shall be reenacted in the form in which they read on the day prior to the effective date of this Act.

(Approved June 14, 2013.)

Note

- 1. Edited pursuant to HRS §23G-16.5.

ACT 117

S.B. NO. 1176

A Bill for an Act Relating to the Hawaii Paroling Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 353-61, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Members of the paroling authority shall be nominated by a panel composed of the chief justice of the Hawaii supreme court~~[-]~~ or the chief justice’s designee, the director~~[-]~~ or the director’s designee, the president of the Hawaii State Bar Association~~[-]~~ or the president’s designee, a representative designated by the head of the Interfaith Alliance Hawaii, a member from the general public to be appointed by the governor, and the president of the Hawaii chapter of the National Association of Social Workers~~[-]~~ or the president’s designee. The panel shall submit to the governor the names of not less than three persons, designated as the nominees, for chairperson or as a member, for each vacancy. The requirement for nomination by the panel established under this section shall only apply to a nominee’s nomination by the governor to an initial term on the paroling authority and not to any subsequent consecutive term of a sitting paroling authority member or chairperson whose initial appointment to office was made pursuant to a nomination by the panel.”

SECTION 2. Section 353-62, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) In its operations, the paroling authority shall:
- (1) Keep and maintain a record of all meetings and proceedings;
 - (2) Make public no more than thirty days after a parole release hearing the following information:
 - (A) The prisoner’s name; and
 - (B) Whether the parole request was approved or denied;
 - ~~[(2)]~~ (3) Send a detailed report of its operations to the governor every three months;
 - ~~[(3)]~~ (4) In promulgating rules, conform to chapter 91;
 - ~~[(4) In all matters]~~ (5) Allow each prisoner a hearing before a panel of three of its members, which shall act by a majority of [its] the panel members; provided that if it is determined immediately preceding or

during the course of a hearing that a sitting panel member must be recused due to a conflict of interest or illness, the panel may proceed with two members; and

- [(5)] (6) Appoint an administrative secretary and such other clerical and other assistants as may be necessary within the limits of available appropriations, subject to any applicable salary classification and civil service schedules, laws, and rules.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 2013.)

ACT 118

S.B. NO. 319

A Bill for an Act Relating to Thrill Craft.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 89, Session Laws of Hawaii 2009, is amended as follows:

1. By amending section 1 to read:

“SECTION 1. Section 200-37, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No person shall operate a thrill craft in the waters of the State, except:

- (1) In areas and during time periods designated by the department;
- (2) Through areas designated by the department to serve as avenues for the ingress and egress of thrill craft between the areas designated under paragraph (1) and the shore;
- (3) Authorized government personnel conducting operations approved by the department; [ø]
- (4) Authorized film production permit holders conducting operations approved by the department[-]; or
- (5) When used to conduct ocean cleanup, as authorized by rules adopted by the department.

To the extent that the authorization to operate thrill craft pursuant to this subsection is inconsistent with any other law, including section 200-38, this subsection shall control.”

2. By amending section 2 to read:

“SECTION 2. Section 200-37, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No person shall operate a thrill craft in the waters of the State, except:

- (1) In areas and during time periods designated by the department;
- (2) Through areas designated by the department to serve as avenues for the ingress and egress of thrill craft between the areas designated under paragraph (1) and the shore; [ø]
- (3) Authorized government personnel conducting operations approved by the department[-]; or

(4) When used to conduct ocean cleanup, as authorized by rules adopted by the department.”

3. By amending section 5 to read as follows:

“SECTION 5. This Act shall take effect upon its approval; provided that ~~on June 30, 2014~~, section 1 of this Act shall be repealed ~~[on June 30, 2014; and provided further that]~~ and section 2 of this Act shall take effect ~~[on July 1, 2014]~~.”

SECTION 2. The department of land and natural resources shall adopt rules in accordance with chapter 91, Hawaii Revised Statutes, to implement this Act.

SECTION 3. The chairperson of the board of land and natural resources shall report to the legislature no later than twenty days prior to the convening of the regular session of 2014 on the status of the adoption of rules pursuant to section 2 of this Act.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 14, 2013.)

ACT 119

H.B. NO. 423

A Bill for an Act Relating to Bureau of Conveyances.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to separate voluntary deregistration of fee non-time share interests from the deregistration provisions under part II of chapter 501, Hawaii Revised Statutes, and to repeal the sunset provision under Act 120, Session Laws of Hawaii 2009, as it applies to deregistration fee time share interests, but preserve the sunset provision for the deregistration of fee non-time share interests.

SECTION 2. Chapter 501, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

“§501- Deregistration of registered land other than fee time share interests. The registered owner of the fee interest in registered land may submit a written request to the assistant registrar to deregister the land under this chapter.

(1) Any written request for deregistration shall include proof of title insurance in the amount of the value of the land to be deregistered and a written waiver of all claims against the State relating to the title to the land arising after the date of deregistration.

(2) Upon presentation to the assistant registrar of a written request for deregistration by the registered owner of the fee interest in registered land, the assistant registrar shall not register the same, but shall:

(A) Record in the bureau of conveyances, pursuant to chapter 502, the current certificate of title for the fee interest in the regis-

tered land; provided that prior thereto, the assistant registrar shall note on the certificate of title all documents and instruments that have been accepted for registration and that have not yet been noted on the certificate of title for the registered land;

- (B) Record in the bureau of conveyances, pursuant to chapter 502, the written request for deregistration presented to the assistant registrar for filing or recording. The request shall be recorded immediately after the certificate or certificates of title; and
 - (C) Cancel the certificate of title.
- (3) The registrar or assistant registrar shall note the recordation and cancellation of the certificate of title in the registration book and in the records of the application for registration of the land that is the subject of the certificate of title. The notation shall state the bureau of conveyances document number for the certificate of title so recorded, the certificate of title number, and the land court application number, map number, and lot number for the land that is the subject of the certificate of title so recorded.
 - (4) No order of court shall be required prior to or in connection with the performance of any of the foregoing actions."

SECTION 3. Section 501-20, Hawaii Revised Statutes, is amended by amending the definitions of "date and time of deregistration" and "deregistered land" to read as follows:

"Date and time of deregistration" means:

- (1) The date and time that a certificate of title for land, other than a fee time share interest, is recorded in the bureau of conveyances pursuant to [section 501-261;] chapter 502 and part II of this chapter;
- (2) The date and time, if prior to July 1, 2012, when a certificate of title for a fee time share interest was recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter, whether such certificate of title was or is certified by the assistant registrar prior to, subsequent to, or on July 1, 2012;
- (3) July 1, 2012, at 12:01 a.m. for all other fee time share interests then in existence and for which a certificate of title was not recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter prior to July 1, 2012; and
- (4) For all fee time share interests not yet in existence as of July 1, 2012, at 12:01 a.m., the date and time of recordation of the declaration, declaration of annexation, or other document or instrument establishing such fee time share interest.

"Deregistered land" means:

- (1) Land, other than a fee time share interest, that is the subject of a certificate of title recorded in the bureau of conveyances pursuant to [section 501-261;] chapter 502 and part II of this chapter;
- (2) A fee time share interest that is the subject of a certificate of title recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter prior to July 1, 2012, whether the certificate of title is certified by the assistant registrar on, before, or after July 1, 2012; and
- (3) All other fee time share interests."

SECTION 4. Section 501-71, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Deregistration pursuant to [sections 501-261 to 501-269] part II of this chapter shall not alter or revoke the conclusive nature or effect of a decree of registration, which shall continue to quiet the title to the deregistered land as to all claims arising prior to the date and time of deregistration of the land, except claims as would not otherwise be barred under this chapter if the lands were not registered."

SECTION 5. Section 501-108, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) An owner desiring to convey in fee registered land or any portion thereof shall execute a deed of conveyance, which the grantor or the grantee may present to the assistant registrar in the bureau of conveyances; provided that no deed, mortgage, lease, or other voluntary instrument shall be accepted by the assistant registrar for registration unless a reference to the number of the certificate of title of the land affected by such instrument is incorporated in the body of the instrument tendered for registration. If the certificate reference in the instrument is not current, an endorsement of the current certificate of title shall be required.

The assistant registrar shall note upon all instruments filed or recorded concurrently with the recorded instrument the document number, the certificate of title number, and, in the case of deregistered land, the bureau of conveyances document number in the spaces provided therefor wherever required.

Except as otherwise provided in ~~[section 501-261-] part II of this chapter:~~

- (1) The assistant registrar shall thereupon, in accordance with the rules and instructions of the court, make out in the registration book a new certificate of title to the grantee;
- (2) The assistant registrar shall note upon the original certificate the date of transfer, and a reference by number to the last prior certificate;
- (3) The original certificate shall be stamped "canceled"; and
- (4) The deed of conveyance shall be filed or recorded and endorsed with the number and place of registration of the certificate of title of the land conveyed."

SECTION 6. Section 501-261, Hawaii Revised Statutes, is amended to read as follows:

"§501-261 Deregistration of fee time share interests. ~~[(a) The registered owner of the fee interest in registered land may submit a written request to the assistant registrar to deregister the land under this chapter.~~

- (1) ~~Any written request for deregistration shall include proof of title insurance in the amount of the value of the land to be deregistered and a written waiver of all claims against the State relating to the title to the land arising after the date of deregistration.~~
- (2) ~~Upon presentation to the assistant registrar of a written request for deregistration by the registered owner of the fee interest in registered land, the assistant registrar shall not register the same, but shall:~~
 - (A) ~~Record in the bureau of conveyances, pursuant to chapter 502, the current certificate of title for the fee interest in the registered land; provided that prior thereto, the assistant registrar shall note on the certificate of title all documents and instruments that have been accepted for registration and that have not yet been noted on the certificate of title for the registered land;~~

- (B) Record in the bureau of conveyances, pursuant to chapter 502, the written request for deregistration presented to the assistant registrar for filing or recording. The request shall be recorded immediately after the certificate or certificates of title; and
 - (C) Cancel the certificate of title.
- (3) ~~The registrar or assistant registrar shall note the recordation and cancellation of the certificate of title in the registration book and in the records of the application for registration of the land that is the subject of the certificate of title. The notation shall state the bureau of conveyances document number for the certificate of title so recorded, the certificate of title number, and the land court application number, map number, and lot number for the land that is the subject of the certificate of title so recorded.~~
- (4) ~~No order of court shall be required prior to or in connection with the performance of any of the foregoing actions.~~
- (b)] The certificate of title for each fee time share interest shall be canceled effective as of the date and time of deregistration of such fee time share interest. Notwithstanding the provisions of section 501-261 in existence prior to July 1, 2012, a fee time share interest for which a certificate of title was not recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter prior to July 1, 2012, shall be deregistered on July 1, 2012, at 12:01 a.m.
- (1) Beginning on July 1, 2012, and continuing for so long as shall be reasonably necessary in the ordinary course of business, the assistant registrar shall:
 - (A) Note on the certificate of title for each fee time share interest all documents and instruments affecting the fee time interest:
 - (i) That were or are registered as of a date and time prior to the date and time of deregistration of the fee time share interest; and
 - (ii) That were not yet noted on the certificate of title of the fee time share interest as of the date and time of deregistration thereof; and
 - (B) Certify each certificate of title.
 - (2) Section 501-196 shall apply to a certificate of title updated pursuant to paragraph (1) upon approval of the same by the assistant registrar, which approval shall be evidenced by a certification of the assistant registrar endorsed upon the certificate of title. A certificate of title for a fee time share interest, including but not limited to a certificate of title recorded prior to July 1, 2012, pursuant to part II of this chapter 501, shall not be considered completed or approved, and shall be subject to modification by the assistant registrar, at any time prior to certification thereof by the assistant registrar. Subsequent to the certification, the certificate of title for a fee time share interest may only be modified pursuant to section 501-196 or as otherwise provided in this chapter.
 - (3) Upon certification of the certificate of title for a fee time share interest by the assistant registrar, the assistant registrar shall mark the certificate of title "canceled", note the cancellation of the certificate of title in the registration book, and notify the court of the cancellation. Regardless of the date upon which such administrative acts are performed, the cancellation of the certificate of title for a fee time share interest shall be effective as of the date and time of deregistration of that fee time share interest.

- (4) If only part of the land described in the certificate of title consists of a fee time share interest, then upon the petition of the registered owner of that portion of the registered land not constituting a fee time share interest, a new certificate of title shall be issued to such owner for that portion of the registered land not constituting a fee time share interest. If registered land is held in the condominium form of ownership, then for purposes of this subsection each unit for which a separate certificate of title has been issued shall be treated as if it were a separate parcel of registered land.
- (5) Except as provided in paragraph (4), no order of court shall be required prior to or in connection with the performance of any of the foregoing actions."

SECTION 7. Section 501-262, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Neither voluntary deregistration of land other than a fee time share interest [~~pursuant to section 501-261~~] nor the mandatory deregistration of any fee time share interest pursuant to part II of this chapter, whether by recordation of a certificate of title in the bureau of conveyances prior to July 1, 2012, or by operation of law thereafter, shall disturb the effect of any proceedings in the land court where the question of title has been determined. All proceedings had in connection with the registration of title that relate to the settlement or determination of title before a certificate of title for land other than a fee time share interest is recorded in the bureau of conveyances pursuant to [~~section 501-261~~] chapter 502 and part II of this chapter or a certificate of title for a fee time share interest is certified and all provisions of this chapter that relate to the status of the title, shall have continuing force and effect with respect to the period of time that title remained under the land court system. Those provisions giving rise to a right of action for compensation from the State, including any limits on and conditions to the recovery of compensation and the State's rights of subrogation with respect thereto, shall also continue in force and effect with respect to the period of time that title remained under the land court system."

SECTION 8. Section 501-264, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) A certificate of title for land other than a fee time share interest recorded in the bureau of conveyances pursuant to [~~section 501-261~~] chapter 502 and part II of this chapter, or certified by the assistant registrar in the case of a fee time share interest, shall constitute a new chain of record title in the registered owner of any estate or interest as shown on the certificate of title so recorded or certified, subject only to the following:

- (1) The estates, mortgages, liens, charges, instruments, documents, and papers noted on the certificate of title so recorded or certified;
- (2) Liens, claims, or rights arising or existing under the laws or Constitution of the United States, which the statutes of this State cannot require to appear of record in the registry; provided that notices of liens for internal revenue taxes payable to the United States, and certificates affecting the liens, shall be deemed to fall within this paragraph only if the same are recorded in the bureau of conveyances as provided by chapter 505;
- (3) Unpaid real property taxes assessed against the land and improvements covered by the certificate of title as recorded or certified, with interest, penalties, and other additions to the tax, which, unless a

notice is filed and registered as provided by county real property tax ordinance, shall be for the period of three years from and after the date on which the lien attached, and if proceedings for the enforcement or foreclosure of the tax lien are brought within the period, until the termination of the proceedings or the completion of the tax sale;

- (4) State tax liens, if the same are recorded in the bureau of conveyances as provided by section 231-33;
- (5) Any public highway, or any private way laid out under the provisions of law, when the certificate of title does not state that the boundary of the way has been determined;
- (6) Any lease, coupled with occupancy, for a term not exceeding one year; provided that the priority of the unrecorded lease shall attach only at the date of the commencement of the unrecorded lease and expire one year from the date or sooner if so expressed;
- (7) Any liability to assessments for betterments, or statutory liability that may attach to land as a lien prior to or independent of, the recording or registering of any paper of the possibility of a lien for labor or material furnished in the improvement of the land; provided that the priority of any liability and the lien therefor (other than for labor and material furnished in the improvement of the land, which shall be governed by section 507-43) shall cease and terminate three years after the liability first accrues unless notice thereof, signed by the officer charged with collection of the assessments or liability, setting forth the amount claimed, the date of accrual, and the land affected, is recorded in the bureau of conveyances pursuant to chapter 502 within the three-year period; and provided further that if there are easements or other rights, appurtenant to a parcel of deregistered land, which for any reason have failed to be deregistered, the easements or rights shall remain so appurtenant notwithstanding the failure, and shall be held to pass with the deregistered land until cut off or extinguished in any lawful manner;
- (8) The possibility of reversal or vacation of the decree of registration upon appeal;
- (9) Any encumbrance not required to be registered as provided in sections 501-241 to 501-248 and relating to a leasehold time share interest or leasehold interest in deregistered land; and
- (10) Child support liens that are created pursuant to order or judgment filed through judicial or administrative proceeding in this State or in any other state, the recording of which shall be as provided by chapter 576D."

2. By amending subsections (c) and (d) to read:

"(c) All instruments, documents, and papers noted on a certificate of title recorded in the bureau of conveyances pursuant to ~~[section 501-261]~~ chapter 502 and part II of this chapter shall have the same force and effect as if they had been recorded in the bureau of conveyances pursuant to chapter 502 as of the date, hour, and minute of reception noted on the certificate of title pursuant to section 501-107; provided that:

- (1) No instrument, document, or paper shall have any greater or other effect after the certificate of title is recorded in the bureau of conveyances pursuant to ~~[section 501-261]~~ chapter 502 and part II of this chapter, as constructive notice or otherwise, than it had or acquired at the time it was registered pursuant to this chapter or made; and

- (2) Nothing in this part shall be construed as giving any greater or other effect, as constructive notice or otherwise, to any instrument, document, or paper recorded in the bureau of conveyances pursuant to chapter 502 prior to the recordation of the certificate of title in the bureau of conveyances pursuant to [section 501-264] chapter 502 and part II of this chapter as to any land, than was provided by the laws of this State (including this chapter and other laws regarding registered land) in effect at the time the instrument, document, or paper was recorded.

(d) If a certificate of title recorded in the bureau of conveyances pursuant to [section 501-264] chapter 502 and part II of this chapter relates to more than one fee time share interest or more than one interest in other deregistered land, then subsection (a) shall apply to each interest separately and only those items described in subsection (a) that encumbered a particular interest prior to recordation of the certificate of title will continue to encumber that interest after the recordation."

SECTION 9. Section 634-51, Hawaii Revised Statutes, is amended to read as follows:

"§634-51 Recording of notice of pendency of action. In any action concerning real property or affecting the title or the right of possession of real property, the plaintiff, at the time of filing the complaint, and any other party at the time of filing a pleading in which affirmative relief is claimed, or at any time afterwards, may record in the bureau of conveyances a notice of the pendency of the action, containing the names or designations of the parties, as set out in the summons or pleading, the object of the action or claim for affirmative relief, and a description of the property affected thereby. From and after the time of recording the notice, a person who becomes a purchaser or incumbrancer of the property affected shall be deemed to have constructive notice of the pendency of the action and be bound by any judgment entered therein if the person claims through a party to the action; provided that in the case of registered land, section 501-151, sections 501-241 to 501-248, and [sections 501-261 to 501-269] part II of chapter 501 shall govern.

This section authorizes the recording of a notice of the pendency of an action in a United States District Court, as well as a state court."

SECTION 10. Section 636-3, Hawaii Revised Statutes, is amended to read as follows:

"§636-3 Judgment, orders, decrees; lien when. Any money judgment, order, or decree of a state court or the United States District Court for the District of Hawaii shall be a lien upon real property when a copy thereof, certified as correct by a clerk of the court where it is entered, is recorded in the bureau of conveyances. No such lien shall continue beyond the length of time the underlying judgment, order, or decree is in force. Except as otherwise provided, every judgment shall contain or have endorsed on it the Hawaii tax identification number, the federal employer identification number, or the last four digits only of the social security number for persons, corporations, partnerships, or other entities against whom the judgment, order, or decree is rendered. If the debtor has no social security number, Hawaii tax identification number, or federal employer identification number, or if that information is not in the possession of the party seeking registration of the judgment, order, or decree, the judgment, order, or decree shall be accompanied by a certificate that provides that the information

does not exist or is not in the possession of the party seeking recordation of the judgment. Failure to disclose or disclosure of an incorrect social security number, Hawaii tax identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon recordation of the judgment, order, or decree. When any judgment, order, or decree is fully paid, the creditor or the creditor's attorney of record in the action, at the expense of the debtor, shall execute, acknowledge, and deliver to the debtor a satisfaction thereof, which may be recorded in the bureau. Every satisfaction or assignment of judgment, order, or decree shall contain a reference to the book and page or document number of the registration of the original judgment. The recording fees for a judgment, order, or decree and for each assignment or satisfaction of judgment, order, or decree shall be as provided by section 502-25.

In the case of registered land, section 501-102, sections 501-241 to 501-248, and [sections 501-261 to 501-269] part II of chapter 501 shall govern.

The party seeking to record or register a judgment, order, or decree shall redact the first five digits of any social security number by blocking the numbers out on the copy of the judgment, order, or decree to be recorded or registered."

SECTION 11. Act 120, Session Laws of Hawaii 2009, is amended by amending section 21 to read as follows:

"SECTION 21. This Act shall take effect on July 1, 2009; provided that section 2 of this Act shall take effect on July 1, 2011~~[- and shall be repealed on December 31, 2014]~~; provided further that section 16 of this Act shall take effect on July 1, 2009, and shall be repealed on the effective date of administrative rules adopted by the department of land and natural resources that address the establishment of transaction fees for each recording in the bureau of conveyances and in the office of the assistant registrar of the land court; provided further that section 17 of this Act shall take effect on January 1, 2012; and provided further that section 18 of this Act shall take effect upon its approval and shall be repealed on January 31, 2010."

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 13. This Act shall take effect upon its approval; provided that section 2 of this Act shall be repealed on December 31, 2014.

(Approved June 14, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 120

H.B. NO. 17

A Bill for an Act Relating to Coastal Areas.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 171-58.5, Hawaii Revised Statutes, is amended to read as follows:

"§171-58.5 Prohibitions. The mining or taking of sand, dead coral or coral rubble, rocks, soil, or other marine deposits seaward from the shoreline is prohibited with the following exceptions:

- (1) The inadvertent taking from seaward of the shoreline of [such] these materials, ~~[not in excess of one gallon per person per day for reason-~~

- able, personal, nonecommercial use;] such as those inadvertently carried away on the body, and on clothes, toys, recreational equipment, and bags;
- (2) For the replenishment or protection of public shoreline areas and adjacent public lands seaward of the shoreline, or construction or maintenance of state approved lagoons, harbors, launching ramps, or navigational channels with a permit authorized under chapter 183C;
 - (3) The clearing of ~~[such]~~ these materials from existing drainage pipes and canals and from the mouths of streams including clearing for the purposes under section 46-11.5; provided that the sand removed shall be placed on adjacent areas unless this placement would result in significant turbidity; ~~[or]~~
 - (4) The cleaning of areas seaward of the shoreline for state or county maintenance purposes including the purposes under section 46-12; provided that the sand removed shall be placed on adjacent areas unless ~~[such]~~ the placement would result in significant turbidity[-];
 - (5) The exercise of traditional cultural practices as authorized by law or as permitted by the department pursuant to article XII, section 7, of the Hawaii State Constitution; or
 - (6) For the response to a public emergency or a state or local disaster.”

SECTION 2. Section 205A-44, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The mining or taking of sand, dead coral or coral rubble, rocks, soil, or other beach or marine deposits from the shoreline area is prohibited with the following exceptions:

- (1) The inadvertent taking from the shoreline area of the materials, ~~[not in excess of one gallon per person per day, for reasonable, personal, nonecommercial use, provided that stricter provisions may be established by the counties;] such as those inadvertently carried away on the body, and on clothes, toys, recreational equipment, and bags;~~
- (2) Where the mining or taking is authorized by a variance pursuant to this part;
- (3) The clearing of ~~[the]~~ these materials from existing drainage pipes and canals and from the mouths of streams including clearing for the purposes under section 46-11.5; provided that the sand removed shall be placed on adjacent areas unless ~~[such]~~ the placement would result in significant turbidity; ~~[or]~~
- (4) The cleaning of the shoreline area for state or county maintenance purposes, including the clearing for purposes under section 46-12; provided that the sand removed shall be placed on adjacent areas unless the placement would result in significant turbidity[-];
- (5) The taking of driftwood, shells, beach glass, glass floats, or seaweed;
- (6) The exercise of traditional cultural practices as authorized by law or as permitted by the department pursuant to article XII, section 7, of the Hawaii State Constitution; or
- (7) For the response to a public emergency or a state or local disaster.”

SECTION 3. Act 160, Session Laws of Hawaii 2010, is amended by adding a new section to be appropriately inserted and to read as follows:

“SECTION 4A. This Act shall not be construed to modify or alter any agreement of the department of land and natural resources that was in effect or executed on the effective date of this Act.”

SECTION 4. Act 160, Session Laws of Hawaii 2010, is amended by amending section 7 to read as follows:

~~“SECTION 7. This Act shall take effect upon its approval; provided that on June 30, 2013, this Act shall be repealed and sections 115-5, 115-9, and 205A-2(c), Hawaii Revised Statutes, shall be reenacted in the form in which they read one day prior to the effective date of this Act.”~~

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on June 29, 2013.

(Approved June 14, 2013.)

ACT 121

S.B. NO. 1161

A Bill for an Act Relating to Vessels.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 200-16, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) An unauthorized vessel may be impounded by the department at the sole [eost and] risk of the owner of the vessel, if the vessel is not removed after the seventy-two-hour period or if during that period the vessel is removed and removed in the harbor or mooring or anchorage area or any other state harbor or mooring or anchorage area without a use permit. The owner of the vessel shall be solely responsible for all costs of the impoundment and the disposal of the vessel. Any proceeds resulting from the impoundment and the disposal of the unauthorized vessel shall be used first to pay the costs of impoundment and disposal and then to pay any mooring fees due. If the proceeds resulting from the impoundment and the disposal are inadequate to pay for all costs and mooring fees due, the owner of the vessel shall remain liable for the outstanding costs and mooring fees.”

SECTION 2. Section 200-31, Hawaii Revised Statutes, is amended to read as follow:

“[§200-31] Vessels required to be registered and numbered. (a) Every undocumented vessel shall be registered and numbered before its use or operation on or in the waters of the State on an annual basis in accordance with the rules of the department except:

- (1) Foreign vessels temporarily using the waters of this State;
 - (2) Public vessels of the United States;
 - (3) Ships' life boats; and
 - (4) Other vessels exempted by the department, if federal laws and requirements permit the department to exempt the vessels.
- (b)** No vessel registration shall be renewed or transferred if:
- (1) The registered owner is delinquent in payment of any moneys due and payable to the department;
 - (2) The registered owner has pending a citation for violation of any of the department's rules; or

- (3) The registered owner's vessel is an abandoned vessel, grounded vessel, derelict vessel, unauthorized vessel, or vessel impounded under section 200-16. All fees and charges relating to the vessel impound as well as any other fees associated with the vessel shall be paid in full prior to the vessel registration being renewed or transferred."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 2013.)

ACT 122

H.B. NO. 1136

A Bill for an Act Relating to Civil Air Patrol.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the civil air patrol.

The sum appropriated shall be expended by the department of defense for the purposes of this Act.

SECTION 2. This Act shall take effect on July 1, 2013.

(Approved June 14, 2013.)

ACT 123

H.B. NO. 808

A Bill for an Act Relating to the Employees' Retirement System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The employees' retirement system of the State of Hawaii is intended to be a tax-qualified retirement plan under section 401(a) of the Internal Revenue Code of 1986, as amended. In order to maintain its tax-qualified status, the employees' retirement system must meet the Internal Revenue Code requirements applicable to it in form (i.e., the wording of the statutes and administrative rules) and in operation (i.e., how the statutes and administrative rules are applied). Although, in general, the rights and duties of members, retirants, and beneficiaries of the employees' retirement system are governed entirely by state law, where there are conflicts between state law and applicable federal law, the employees' retirement system must satisfy federal tax law or risk losing its tax-qualified status. Certain provisions of federal tax law applicable to the employees' retirement system allow only a "spouse" of a retirement system member or retirant to receive certain rights or benefits. The federal Defense of Marriage Act of 1996 requires that when interpreting a federal law, rulings, regulations and interpretations, such as the Internal Revenue Code and the regulations promulgated under the Internal Revenue Code, "the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife." Therefore, the legislature finds that, in order to preserve the tax-qualified status of the employees'

retirement system, certain rights otherwise available to a “spouse” under chapter 88, Hawaii Revised Statutes, and the rules adopted pursuant thereto, cannot be made available to partners to a civil union.

Any provision of this Act that limits the recognition of civil unions is intended only to preserve the tax-qualified status of the employees’ retirement system. It is the legislature’s intent that civil union partners shall continue to have all of the protections, obligations, rights, and responsibilities of spouses under the portions of chapter 88 not restricted by the Internal Revenue Code. No provision of this Act shall be interpreted to weaken or lessen any of the protections and rights conferred by chapter 572B, Hawaii Revised Statutes, for any other purpose under state law.

This Act also amends sections 88-22.5(a)(6) and 88-74.7, Hawaii Revised Statutes, to delete specific references to civil unions that are made superfluous by the provision of this Act confirming that, for the purposes of chapter 88, Hawaii Revised Statutes, the terms “married”, “marriage”, “marital”, “husband”, “wife”, or similar spousal terms shall include civil unions and civil union partners, unless to do so would jeopardize the tax-qualified status of the employees’ retirement system.

SECTION 2. Chapter 88, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§88- Civil unions. For the purposes of this chapter, the terms “married”, “marriage”, “marital”, “husband”, “wife”, or similar spousal terms shall include civil union partners and civil unions under chapter 572B, unless recognition of a civil union as a marriage conflicts with the requirements for the system to be a tax-qualified plan under section 401(a) of the Internal Revenue Code of 1986, as amended.”

SECTION 3. Section 88-22.5, Hawaii Revised Statutes, is amended to read as follows:

“§88-22.5 Federal tax qualification requirements. (a) The system shall be administered in accordance with the requirements of section 401(a)(1), (2), (8), (9), (25), (31), and (37) of the Internal Revenue Code of 1986, as amended. Without limiting the generality of the foregoing and notwithstanding any provision of chapter 88 to the contrary:

- (1) Prior to the satisfaction of all liabilities with respect to members and their beneficiaries, no part of the corpus or income of the system shall be used for or diverted to purposes other than for the exclusive benefit of members and their beneficiaries. The payment of reasonable expenses from the expense fund for the administration of the system in accordance with section 88-116 shall be deemed to be for the benefit of members and their beneficiaries;
- (2) Benefits forfeited by a member for any reason shall not be applied to increase the benefits a member or beneficiary would otherwise receive under the system;
- (3) In accordance with section 88-74.7 and rules adopted by the board of trustees, the entire interest of a member shall be distributed or distribution shall begin no later than the member’s “required beginning date”, as defined in section 401(a)(9) of the Internal Revenue Code of 1986, as amended;
- (4) In accordance with rules adopted by the board of trustees, a member or beneficiary may elect, at the time and in the manner prescribed

by the board of trustees, to have any portion of an "eligible rollover distribution" paid in a "direct rollover" to an "eligible retirement plan", as those terms are defined in section 401(a)(31) of the Internal Revenue Code of 1986, as amended;

- (5) ~~[In the event of]~~ If the termination of or complete discontinuance of employer contributions to the system~~[-]~~ occurs, the rights of all members to benefits accrued as of the date of the termination or discontinuance, to the extent then funded, shall be nonforfeitable; and
- (6) In the case of a member who dies while performing qualified military service, as defined in section 414(u)(5) of the Internal Revenue Code, the survivors of the member shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under this chapter had the member resumed and then terminated employment on account of death; provided that this paragraph shall not limit the rights to which a member's designated beneficiary, spouse, ~~[civil union partner]~~ reciprocal beneficiary, or children are otherwise entitled by this chapter; provided further that the legislature finds that section 88-137 provides the benefits required by this paragraph.

(b) The board of trustees shall adopt rules necessary for the purposes of this section. Rules adopted for the purposes of this section shall be exempt from the public notice, public hearing, and gubernatorial approval requirements of chapter 91; provided that the rules shall be adopted at a public meeting subject to the requirements of part I of chapter 92 and a copy of the proposed rules shall be available for public inspection at the office of the system at least six calendar days before the meeting.

(c) Notwithstanding sections 572B-9 and 572B-11, unless the civil union partners are "spouses" under applicable federal law, civil union partners shall not be entitled to the rights of spouses under this chapter where they are not entitled to the rights of spouses under the Internal Revenue Code."

SECTION 4. Section 88-74.7, Hawaii Revised Statutes, is amended by amending subsections (e), (f), and (g) to read as follows:

"(e) If the system does not receive a written election from the member or former member under section 88-83, 88-283, or 88-333, as applicable, prior to the later of the member's or former member's required beginning date or sixty days following the receipt by the member or former member of notice from the system that the member or former member is required to make an election, the following election shall be deemed to have been made as of the member or former member's required beginning date:

- (1) If the member or former member is unmarried or has no ~~[civil union partner or]~~ reciprocal beneficiary, the member or former member shall be deemed to have elected the maximum retirement allowance; or
- (2) If the member or former member is married or has a ~~[civil union partner or]~~ reciprocal beneficiary, the member or former member shall be deemed to have elected option 3 under section 88-83, or option A under section 88-283, as applicable, and to have designated the member's or former member's spouse~~[-]~~, ~~[civil union partner]~~ or reciprocal beneficiary as the member's or former member's beneficiary;

provided that if the system receives the written election after the member's or former member's required beginning date, but within sixty days following receipt

by the member or former member of notice from the system that the member or former member is required to make the election, the written election shall apply, and the member's or former member's retirement benefit shall be recomputed, based on the written election, retroactive to the member or former member's required beginning date. The amount of any underpayment resulting from recomputing the benefit shall bear regular interest. If recomputing the benefit results in an overpayment, payments shall be adjusted so that the actuarial equivalent of the benefit to which the member or former member was correctly entitled shall be paid.

(f) If the system does not have current information about the member's or former member's marital~~[-civil union,]~~ or reciprocal beneficiary status at the time of a deemed election, the following presumptions shall apply:

- (1) If the member or former member was married or had a ~~[civil union partner or]~~ reciprocal beneficiary at the time the member or former member last provided information to the system about the member's or former member's marital~~[-civil union,]~~ or reciprocal beneficiary status, it shall be presumed that the member or former member is still married to the same spouse~~[-is in the same civil union partnership,]~~ or is in the same reciprocal beneficiary relationship. If the system does not have information as to the age of the spouse~~[-civil union partner,]~~ or reciprocal beneficiary, the spouse~~[-civil union partner,]~~ or reciprocal beneficiary shall be presumed to be forty years younger than the member or former member for purposes of computing the member's or former member's benefit; and
- (2) If the member or former member was unmarried and did not have a ~~[civil union partner or]~~ reciprocal beneficiary at the time the member or former member last provided information to the system about the member or former member's marital status, it shall be presumed that the member or former member is married and that the spouse of the member or former member is forty years younger than the member or former member.

(g) The presumptions in subsection (f) shall cease to apply when the member or former member provides the system with current information as to the member's or former member's marital~~[-civil union,]~~ or reciprocal beneficiary status and the age of the member or former member's spouse~~[-civil union partner,]~~ or reciprocal beneficiary, if any, on the member's or former member's required beginning date. The information shall be provided in a form satisfactory to the system. At that time, the member's or former member's retirement allowance shall be recomputed, retroactive to the member's or former member's required beginning date, based on the updated information; provided that, except as provided in subsection (e), the member or former member shall not be permitted to change the member's or former member's retirement allowance option election or beneficiary; provided further that the benefit being paid to any member or former member who, on the member's or former member's required beginning date, was unmarried and did not have a ~~[civil union partner or]~~ reciprocal beneficiary, but who was deemed to elect option 3 or option A with an assumed spouse~~[-civil union partner,]~~ or reciprocal beneficiary, shall be converted to the maximum retirement allowance retroactive to the member's or former member's required beginning date. The amount of any underpayment resulting from recomputing the benefit shall bear regular interest. If recomputing the benefit results in an overpayment, payments shall be adjusted so that the actuarial equivalent of the benefit to which the member or former member was correctly entitled shall be paid."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon approval.

(Approved June 14, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 124

H.B. NO. 805

A Bill for an Act Relating to Federal Tax Qualification of the Employees' Retirement System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The employees' retirement system of the State of Hawaii is intended to be a tax-qualified retirement plan under section 401(a) of the Internal Revenue Code of 1986, as amended. In 2009, the employees' retirement system applied to the Internal Revenue Service for a determination that the employees' retirement system's "plan document" (i.e., the wording of the statutes, administrative rules, and board of trustee actions that govern the employees' retirement system) meets the federal tax qualification requirements in section 401(a) of the Internal Revenue Code that are applicable to pension plans sponsored by state and local governments. The employees' retirement system received a favorable determination letter on March 21, 2012. The Internal Revenue Service conditioned the favorable determination letter on amendments made to chapter 88, Hawaii Revised Statutes, to meet certain vesting rules that were applicable to tax qualified plans prior to the enactment of the federal Employee Retirement Income Security Act on September 2, 1974. Those vesting rules require that a member's right to the member's accrued retirement benefit be non-forfeitable upon the attainment of normal retirement age, the completion of any required years of service, and any other reasonable requirements set forth in the plan.

The favorable determination letter was also conditioned upon the adoption of amendments to section 88-83.5, Hawaii Revised Statutes, to comply with final regulations under section 415 of the Internal Revenue Code.

The specific statutory amendments upon which the favorable determination letter was conditioned were approved by the Internal Revenue Service as part of its determination process.

The legislature finds that, to maintain the federal tax qualification of the employees' retirement system, chapter 88, Hawaii Revised Statutes, should be amended to incorporate the amendments approved by the Internal Revenue Service as part of its determination process.

SECTION 2. Section 88-73, Hawaii Revised Statutes, is amended to read as follows:

"§88-73 Service retirement. (a) Any member who:

- (1) Became a member before July 1, 2012, and has at least five years of credited service and has attained age fifty-five;
- (2) Became a member before July 1, 2012, and has at least twenty-five years of credited service;

- (3) Has at least ten years of credited service, which includes service as a judge before July 1, 1999, an elective officer, or a legislative officer;
- (4) Becomes a member after June 30, 2012, and has at least ten years of credited service and has attained age sixty; or
- (5) Becomes a member after June 30, 2012, and has at least twenty-five years of credited service and has attained age fifty-five,

shall become eligible to receive a retirement allowance after the member has terminated service.

(b) Any member who first earned credited service as a judge after June 30, 1999, but before July 1, 2012, and who has at least five years of credited service and has attained age fifty-five or has at least twenty-five years of credited service shall become eligible to receive a retirement allowance after the member has terminated service. Any member who first earned credited service as a judge after June 30, 2012, and has at least ten years of credited service and has attained age sixty or has at least twenty-five years of credited service and has attained age fifty-five shall be eligible to receive a retirement allowance after the member has terminated service.

(c) A member may retire upon the written application specifying the date of retirement, which shall not be less than thirty days nor more than one hundred fifty days subsequent to the date of filing. Retirement shall be effective on the first day of a month, except for the month of December when retirement on the first or last day of the month shall be allowed.

(d) Any member of the legislature who attains age sixty-five may retire and receive a service retirement allowance although the member continues to fill the elective position.

(e) In the case of a class A or B member who also has prior credited service under part VII or part VIII, total credited service as a class A, class B, class C, and class H member shall be used to determine the eligibility for retirement allowance.

(f) A member's right to the member's accrued retirement benefit is non-forfeitable upon the attainment of normal retirement age and the completion of the requisite years of credited service.

For the purpose of this subsection:

"Normal retirement age" means age sixty-five.

"Requisite years of credited service" means five years for class A and B members who became members before July 1, 2012, and ten years for class A and B members who became members after June 30, 2012."

SECTION 3. Section 88-83.5, Hawaii Revised Statutes, is amended to read as follows:

"§88-83.5 Benefit limitations. (a) Notwithstanding any other law to the contrary, the benefits payable to all employees who first become members on or after January 1, 1990, shall be subject to the limitations set forth in section 415 of the Internal Revenue Code of 1986, as amended, applicable to governmental plans. The dollar limit in section 415(b)(1)(A) of the Internal Revenue Code of 1986, as amended, shall be adjusted automatically under section 415(d) of the Internal Revenue Code of 1986, as amended, effective January 1 of each year, as published in the Internal Revenue Bulletin. The automatic adjustment shall apply to members, former employees[;] with vested benefit status, and retirants[; and beneficiaries]. To the extent the applicable interest rate, as defined in section 417(e)(3) of the Internal Revenue Code of 1986, as amended, is used in computing the limitations under section 415 of the Internal Revenue Code of 1986, as amended, the stability period for the purposes of applying section

1.417(e)-1(d) (4) of the United States Treasury Regulations shall be one calendar year beginning January 1, and the lookback month for the purposes of applying section 1.417(e)-1(d)(4) of the United States Treasury Regulations shall be the fourth full calendar month preceding the first day of the stability period (September).

(b) Effective January 1, 2009, the following rules shall apply for the purposes of applying the limitations in section 415(b) of the Internal Revenue Code of 1986, as amended:

- (1) The dollar limit in section 415(b)(1)(A) of the Internal Revenue Code of 1986, as amended, shall be applied to the member's annual benefit as of the member's annuity starting date, as defined in section 417(f)(2) of the Internal Revenue Code of 1986, as amended, without regard to any automatic cost-of-living increases; and
- (2) In no event may the member's annual benefit exceed the dollar limit applicable at the member's annuity starting date, as defined in section 417(f)(2) of the Internal Revenue Code of 1986, as amended, as increased in subsequent years pursuant to section 415(d) of the Internal Revenue Code of 1986, as amended.

~~(b)~~ (c) Notwithstanding any other law to the contrary, the benefits payable to all employees who first became members before January 1, 1990, shall be subject to the greater of the following limitations as provided in section 415(b) (10) of the Internal Revenue Code of 1986, as amended:

- (1) The limitations set forth in section 415 of the Internal Revenue Code of 1986, as amended; or
- (2) The benefit of the member without regard to any benefit increases pursuant to an amendment adopted after October 14, 1987.

~~(e)~~ (d) The system shall establish a benefit restoration plan for the payment of retirement benefits as permitted under section 415(m) of the Internal Revenue Code of 1986, as amended, as follows:

- (1) All retirants and beneficiaries of the system whose pension has been limited by section 415 of the Internal Revenue Code shall receive a monthly benefit from the plan established pursuant to this subsection that is equal to the difference between the retirement benefit otherwise payable and the retirement benefit payable because of section 415 of the Internal Revenue Code of 1986, as amended;
- (2) Participation in the plan shall be determined for each plan year and shall cease whenever the retirement benefit is not limited by section 415 of the Internal Revenue Code of 1986, as amended;
- (3) The plan shall be funded on a plan-year-to-plan-year basis and shall not be used to pay any benefits payable in future years. Upon the recommendation of the system's actuary, the required contribution amount shall be determined by the board and deposited in a separate fund from an allocation of employer contribution amounts pursuant to this chapter;
- (4) The board shall administer the plan and may make modifications to the benefits payable as may be necessary to maintain the qualified status of the plan under section 415(m) of the Internal Revenue Code of 1986, as amended."

SECTION 4. Section 88-281, Hawaii Revised Statutes, is amended to read as follows:

"§88-281 Service retirement. (a) A member who has ten years of credited service and has attained age sixty-two, or a member with thirty years credited

service who has attained the age of fifty-five, shall become eligible to receive a retirement allowance after the member has terminated service.

(b) If a member has at least twenty-five years of credited service as a sewer worker or as a water safety officer of which the last five or more years prior to retirement is credited in such a capacity, then the sewer worker or water safety officer shall be eligible to receive a retirement benefit unreduced for age after the member has terminated service.

(c) A member who has twenty years of credited service and has attained age fifty-five shall be eligible to receive an early retirement allowance reduced for age after the member has terminated service.

(d) A member who has ten years of credited service and terminates service prior to attaining age sixty-two shall have a vested right and shall be eligible to receive a retirement allowance when the member has attained age sixty-five.

(e) If a member has at least thirty years of credited service through June 30, 2003; twenty-nine years of credited service on or after July 1, 2004; twenty-eight years of credited service on or after July 1, 2005; twenty-seven years of credited service on or after July 1, 2006; twenty-six years of credited service on or after July 1, 2007; and twenty-five years of credited service on or after July 1, 2008, as an emergency medical technician, of which the last five or more years prior to retirement is credited service in that capacity, the emergency medical technician shall be eligible to receive a retirement benefit unreduced for age after the member has terminated service.

(f) A member may retire upon the written application to the board, specifying the desired date of retirement, which shall be not less than thirty days nor more than one hundred fifty days subsequent to the date of filing. Retirement shall be effective on the first day of a month, except for the month of December when retirement on the first or last day of the month shall be allowed.

(g) A member's right to the member's accrued retirement benefit is non-forfeitable upon the attainment of normal retirement age and the completion of ten years of credited service.

For the purpose of this section, "normal retirement age" means age sixty-five."

SECTION 5. Section 88-331, Hawaii Revised Statutes, is amended to read as follows:

"§88-331 Service retirement. (a) A class H member who:

- (1) Became a member before July 1, 2012, has at least five years of credited service, and has attained age sixty-two;
- (2) Became a member before July 1, 2012, has at least thirty years of credited service, and has attained the age of fifty-five; or
- (3) Becomes a member after June 30, 2012, has at least ten years of credited service, and has attained age sixty-five; or
- (4) Becomes a member after June 30, 2012, has at least thirty years of credited service, and has attained age sixty,

shall become eligible to receive a retirement allowance after the member has terminated service.

(b) A class H member who became a member before July 1, 2012, and has at least twenty-five years of credited service as a sewer worker or water safety officer, of which the last five or more years prior to retirement is credited service in that capacity, shall become eligible to receive a retirement allowance unreduced for age after the member has terminated service. A class H member who becomes a member after June 30, 2012, and has at least twenty-five years of credited service as a sewer worker or water safety officer, of which the last five

or more years prior to retirement is credited service in that capacity, and has attained age fifty-five shall become eligible to receive a retirement allowance unreduced for age after the member has terminated service.

(c) A class H member who has twenty years of credited service and has attained age fifty-five shall be eligible to receive an early retirement allowance reduced for age after the member has terminated service.

(d) If a class H member, who became a member before July 1, 2012, has at least twenty-eight years of credited service on or after July 1, 2005; twenty-seven years of credited service on or after July 1, 2006; twenty-six years of credited service on or after July 1, 2007; and twenty-five years of credited service on or after July 1, 2008, as an emergency medical technician, of which the last five or more years prior to retirement is credited service in that capacity, the member shall be eligible to receive a retirement benefit unreduced for age after the member has terminated service. If a class H member, who becomes a member after June 30, 2012, has at least twenty-five years of credited service as an emergency medical technician, of which the last five or more years prior to retirement is credited service in that capacity, and has attained age fifty-five, the member shall be eligible to receive a retirement benefit unreduced for age after the member has terminated service.

(e) A class H member may retire upon the written application to the system, specifying the desired date of retirement, which shall be not less than thirty days nor more than one hundred fifty days subsequent to the date of filing. Retirement shall be effective on the first day of a month, except for the month of December when retirement on the first or last day of the month shall be allowed.

(f) A member's right to the member's accrued retirement benefit is non-forfeitable upon the attainment of normal retirement age and the completion of the requisite years of credited service.

For the purpose of this subsection:

"Normal retirement age" means age sixty-five.

"Requisite years of credited service" means five years for class H members who became members before July 1, 2012, and ten years for class H members who became members after June 30, 2012."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 14, 2013.)

ACT 125

H.B. NO. 1132

A Bill for an Act Relating to Public Disclosure of Financial Interests Statements.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 84-17, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The disclosure of financial interest required by this section shall be filed:

- (1) [Between] By any person enumerated in subsection (c), except a member of the legislature, between January 1 and May 31 of each year;
- (2) By a member of the legislature between January 1 and January 31 of each year;

- (2) (3) Within thirty days of [one's] a person's election or appointment to a state position enumerated in subsection (c); or
- (3) (4) Within thirty days of separation from a state position if a prior financial disclosure statement for the position was not filed within the one hundred eighty days preceding the date of separation;

provided that candidates for state elective offices or the constitutional convention shall file the required statements no later than twenty days prior to the date of the primary election for state offices or the election of delegates to the constitutional convention."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 14, 2013.)

ACT 126

H.B. NO. 791

A Bill for an Act Relating to Nonprofit Corporations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 414D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§414D- Inspection of records by directors. (a) A director of a corporation is entitled to inspect and copy the books, records, and documents of the corporation, including the records described in section 414D-301, at any reasonable time to the extent reasonably related to the performance of the director's duties, including the director's duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the corporation or law.

(b) The circuit court of the county where the corporation's principal office (or if none in this State, registered office) is located may order inspection and copying of the books, records, and documents demanded at the corporation's expense, upon application of a director who has been refused such inspection or copying rights, unless the corporation establishes that the director is not entitled to such inspection or copying rights. The court shall dispose of an application under this subsection on an expedited basis.

(c) If an order is issued, the court may include provisions protecting the corporation from undue burden or expense, and prohibiting the demanding director from using information obtained upon exercise of the inspection or copying rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the demanding director for the director's costs, including reasonable attorney's fees, incurred in connection with making the application."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.
(Approved June 14, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds for Hawai'i Pacific Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. Pursuant to part II, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$175,000,000, in one or more series, for the purpose of assisting Hawai'i Pacific Health, a Hawaii nonprofit corporation, the obligated group in which Hawai'i Pacific Health is a member, one or more of Hawai'i Pacific Health's nonprofit affiliates, or any combination thereof, in financing, refinancing, or reimbursing costs related to the construction or renovation of health care facilities.

The legislature hereby finds and determines that the financing, refinancing, or reimbursing costs related to the construction or renovation of health care facilities of Hawai'i Pacific Health, its obligated group and Hawai'i Pacific Health's affiliates, constitute a project as defined in part II, chapter 39A, Hawaii Revised Statutes, and the financing thereof constitutes assistance to a not-for-profit corporation that provides health care facilities to the general public.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part II, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2018, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 and to refund special purpose revenue bonds authorized in this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2018.

SECTION 6. This Act shall take effect on July 1, 2013.

(Approved June 14, 2013.)

ACT 128

H.B. NO. 1388

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist a Processing Enterprise.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that shoreline erosion is threatening Sunrise Capital, Inc.'s shrimp hatchery facility in Kekaha, Kauai. Sunrise Capital, Inc.'s shrimp hatchery facility is a specific pathogen free facility, meaning any live shrimp from this facility are certified to be free of certain shrimp diseases. Accordingly, the facility produces some of the most in-demand breeding shrimp for hatcheries all over the world. Sunrise Capital, Inc., is the second largest supplier of disease-free shrimp breeding stock in the State.

The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. Pursuant to part IV, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$1,300,000 in one or more series, for the purpose of assisting Sunrise Capital Inc., a Hawaii corporation, in the planning, design, and construction of a two-phase project that will protect its shrimp hatchery facility. The first phase involves the protection of its current packing facility, and the second phase involves the relocation of its packing facility and salt water well further inland. The legislature hereby finds and determines that the activities and facilities of Sunrise Capital, Inc., constitute a project as defined in part IV, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance for a processing enterprise.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part IV, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist a processing enterprise.

SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2018, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 and to refund special purpose revenue bonds authorized in this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2018.

SECTION 6. This Act shall take effect on July 1, 2013.

(Approved June 14, 2013.)

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist a Seawater Air Conditioning Project.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that support for the development of efficient energy systems in Hawaii, which is geographically isolated from sources of oil, continues to be in the public interest.

The legislature further finds that Kaiuli Energy, LLC, proposes to build a seawater air conditioning district cooling system to serve Waikiki and nearby areas on Oahu. Kaiuli Energy, LLC, is engaged in the planning, design, and construction of a seawater air conditioning district cooling facility and chilled water distribution system, using cold, deep seawater as the primary cooling source.

The issuance of special purpose revenue bonds and refunding special purpose revenue bonds under this Act to assist Kaiuli Energy, LLC, in constructing the portion of its district cooling system will make the statewide development of such a system more economically feasible and provide numerous benefits. Among other benefits, it is expected that such a system will:

- (1) Provide customers with reduced and stable cooling costs;
- (2) Use an abundant, infinite, renewable energy resource – cold, deep seawater – to provide more than ninety per cent of the cooling load;
- (3) Eliminate the need for cooling towers and, as a result, reduce potable water use, toxic chemical use, and the production of sewage;
- (4) Greatly reduce the use of harmful chemicals used in conventional cooling systems;
- (5) Provide substantial energy cost savings compared to conventional air conditioning systems;
- (6) Have lower operating and maintenance costs than individual building air conditioning systems;
- (7) Generate millions of dollars in construction project spending and also create long-term jobs relating to the operation of the system; and
- (8) Help the State, counties, and federal government meet their goals and mandates for energy efficiency.

The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$200,000,000 in one or more series, for the purpose of assisting Kaiuli Energy, LLC, a limited liability company, in financing or refinancing the costs relating to the planning, design, construction, equipping, acquisition of land, including easements or other interests therein, and other tangible assets for a seawater air conditioning district cooling facility and chilled water distribution system. The legislature hereby finds and determines that the construction of a seawater air conditioning district cooling facility and chilled water distribution system constitute a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

SECTION 3. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part

V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 4. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2018, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2 and to refund special purpose revenue bonds authorized in this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2018.

SECTION 6. This Act shall take effect on July 1, 2013.

(Approved June 14, 2013.)

ACT 130

H.B. NO. 504

A Bill for an Act Relating to State Funds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the office of the auditor concluded in its July 2012 *Study of the Transfer of Non-general Funds to the General Fund*, Report No. 12-04, that to gain more flexibility over the budget process, new safeguards need to be built into criteria for special and revolving funds.

The purpose of this Act is to implement certain recommendations of the auditor, including requiring special and revolving funds to reflect a link between the program funded and the source of revenue.

SECTION 2. Section 23-11, Hawaii Revised Statutes, is amended to read as follows:

“[H§23-11]] New special or revolving funds. (a) Within five days after the deadline for the introduction of bills in each legislative session, the clerks of each house of the legislature shall transmit, to the [legislative] auditor for analysis, copies of all legislative bills that were introduced in their respective houses during that session that propose to establish new special or revolving funds.

(b) The criteria to be used by the auditor in analyzing each legislative bill shall include~~[- but not be limited to, the extent to which the fund]~~:

(1) ~~[Serves the purpose for which it is being created; and]~~ The need for the fund, as demonstrated by:

(A) The purpose of the program to be supported by the fund;

(B) The scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and

(C) An explanation of why the program cannot be implemented successfully under the general fund appropriation process; and

- (2) ~~[Reflects]~~ Whether there is a clear ~~[link]~~ nexus between the ~~[benefit]~~ benefits sought and ~~[changes]~~ charges made upon the program users or beneficiaries ~~[of the program,]~~ or a clear link between the program and the sources of revenue, as opposed to serving primarily as a means to provide the program or users with an automatic means of support ~~[which]~~ that is removed from the normal budget and ~~[appropriations]~~ appropriation process.

Each analysis shall set forth the probable effects of the proposed fund and shall also assess alternative forms of funding.

(c) No later than thirty days prior to the adjournment sine die of each legislative session, the ~~[legislative]~~ auditor shall submit the analysis of each transmitted legislative bill to each house of the legislature."

SECTION 3. Section 23-12, Hawaii Revised Statutes, is amended to read as follows:

"§23-12 Review of special, revolving, and trust funds. (a) The office of the ~~[state]~~ auditor shall report to the legislature, at each regular session, a review of special, revolving, and trust funds established to provide services rendered by any state department or establishment to other state departments or establishments or to any political subdivision of the State. The review shall include ~~[but not be limited to]:~~

- (1) An evaluation of the original intent and purpose of each fund, both as expressed by the legislature and as understood by the expending agency;
- (2) The degree to which each fund achieves the stated and claimed purposes;
- (3) An evaluation of performance standards established by the agency; and
- (4) A summary statement reflecting total fund transactions in the preceding five fiscal years, including the fund balance at the beginning of each fiscal year, total deposits and withdrawals, amount of interest earned, total expenditures made from the fund, and the ending fund balance for each fiscal year.

(b) Each special, revolving, and trust fund shall be reviewed every five years as follows:

- (1) Beginning ~~[1994]~~ 2014 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds of the department of accounting and general services; the department of agriculture; the department of budget and finance; and the department of land and natural resources;
- (2) Beginning ~~[1995]~~ 2015 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds of the department of the attorney general; the department of business, economic development, and tourism; and the University of Hawaii system;
- (3) Beginning ~~[1996]~~ 2016 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds within the judiciary and of the department of commerce and consumer affairs; the department of Hawaiian home lands; the department of health; and the department of human services;
- (4) Beginning ~~[1997]~~ 2017 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds of

- the office of the governor; the office of Hawaiian affairs; and the department of education; ~~[and]~~
- (5) Beginning ~~[1998]~~ 2018 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds of the department of labor and industrial relations; the department of taxation; the department of human resources development; the department of public safety; and all other moneys expended in accordance with section 37-40[-]; and
 - (6) Beginning 2014 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds of the department of transportation and the department of defense."

SECTION 4. Section 37-52.3, Hawaii Revised Statutes, is amended to read as follows:

"[§37-52.3] Criteria for the establishment and continuance of special funds. Special funds shall ~~[only]~~ be established only pursuant to an act of the legislature. The legislature, in establishing or reviewing a special fund to determine whether it should be continued, shall ensure that the special fund:

- (1) Serves ~~[the purpose for which it was originally established;]~~ a need, as demonstrated by:
 - (A) The purpose of the program to be supported by the fund;
 - (B) The scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and
 - (C) An explanation of why the program cannot be implemented successfully under the general fund appropriation process;
- (2) Reflects a clear nexus between the benefits sought and charges made upon the program users or beneficiaries ~~[of the program;]~~ or a clear link between the program and the sources of revenue, as opposed to serving primarily as a means to provide the program or users with an automatic means of support that is removed from the normal budget and appropriation process;
- (3) Provides an appropriate means of financing for the program or activity~~[-];~~ that is used only when essential to the successful operation of the program or activity; and
- (4) Demonstrates the capacity to be financially self-sustaining."

SECTION 5. Section 37-52.4, Hawaii Revised Statutes, is amended to read as follows:

"[§37-52.4] Criteria for the establishment and continuance of revolving funds. Revolving funds shall only be established pursuant to an act of the legislature. The legislature, in establishing or reviewing a revolving fund to determine whether it should be continued, shall ensure that the revolving fund:

- (1) Serves ~~[the purpose for which it was originally established;]~~ a need, as demonstrated by:
 - (A) The purpose of the program to be supported by the fund;
 - (B) The scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and
 - (C) An explanation of why the program cannot be implemented successfully under the general fund appropriation process;
- (2) Reflects a clear nexus between the benefits sought and charges made upon the program users or beneficiaries~~[of the program;]~~ or a clear link between the program and the sources of revenue, as opposed to

serving primarily as a means to provide the program or users with an automatic means of support that is removed from the normal budget and appropriation process;

- (3) Provides an appropriate means of financing for the program or activity[;] that is used only when essential to the successful operation of the program or activity; and
- (4) Demonstrates the capacity to be financially self-sustaining.”

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on June 30, 2013.

(Approved June 14, 2013.)

Note

1. No strike through.

ACT 131

S.B. NO. 482

A Bill for an Act Relating to Agriculture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that it is an important priority to encourage beekeeping operations of all sizes throughout the State to ensure the continued viability of honeybee stocks both in managed apiaries and in the wild. Honeybees are a primary pollinator of food crops essential for many agricultural and horticultural operations. However, honeybee populations are declining at a rapid rate due to disease and predators. Varroa mites, small hive beetles, and nosema have decimated honeybee populations on the mainland United States and recently throughout Hawaii.

The legislature further finds that the best way to make beekeeping an attractive proposition in Hawaii is to make it easier and financially viable for beekeepers to legally extract, bottle, and sell honey by minimizing the administrative and bureaucratic requirements in ways that will not affect public safety. Honey is antiseptic, antibiotic, antifungal, and antibacterial — it never spoils and does not host harmful bacteria. There is a well-priced market for raw, local artisanal honey in Hawaii, and beekeepers will overcome today’s difficult environmental obstacles to farming bees if they can successfully sell their honey.

Most small beekeepers cannot successfully navigate the current regulatory hurdles required to operate a certified food-processing establishment on their own premises for the extraction and bottling of honey. Currently, if located in remote areas without chlorinated county water, beekeepers are required to carry the frames of honey away from their farms in bee boxes to an existing certified kitchen, a practice that can endanger healthy bees. Many have given up beekeeping.

The purpose of this Act is to encourage beekeeping operations in the State by exempting home-based agricultural producers of honey from processing honey in a certified honey house and obtaining a permit; provided that certain labeling and safety requirements are met.

SECTION 2. Section 328-79, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§328-79]]~~ Home-based agricultural producer of honey; exemption. (a)

A home-based agricultural producer of honey shall not be required to process honey in a certified honey house or food processing establishment, or be required to obtain a permit from the department ~~[of health]~~, if the producer:

- (1) Sells less than ~~[fifty]~~ five hundred gallons of honey a year;
- (2) Sells the honey directly to consumers~~;~~ and or directly to a retail store that in turn sells the honey directly to consumers;
- (3) Labels each container of honey sold with:
 - (A) The name and address of the producer;
 - (B) The net weight and volume of the honey, by standard measure;
 - (C) The date the honey was produced; ~~and~~
 - (D) The statement, “Honey should not be consumed by infants under one year of age.” in clear and conspicuous print; and
 - ~~[(D)]~~ (E) The statement, “This product is home-produced and processed and has not been inspected by the Department of Health,” in clear and conspicuous print[-];
- (4) Attends a department of health approved food safety workshop and passes the food safety certification exam; and
- (5) Keeps honey production volume and honey product distribution records for a period of at least two years and makes the records available to the department.

(b) The State and counties shall not be liable for claims associated with honey distributed by home-based agricultural producers of honey; except for instances of gross negligence and intentional misconduct by the State or counties.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 17, 2013.)

ACT 132

H.B. NO. 51

A Bill for an Act Relating to State Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in article VII, section 13 of the state constitution which states: “Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance”, the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the state is set forth in article VII, section 13 of the state constitution, which states in part: “General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current

or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance." Article VII, section 13 also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including "[r]eimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year" and "[b]onds constituting instruments of indebtedness under which the State...incurs a contingent liability as a guarantor, but only to the extent the principal amount of such bonds does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded" under said article VII, section 13.

- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 2012-2013 and estimated for each fiscal year from 2013-2014 to 2016-2017, is as follows:

<u>Fiscal Year</u>	<u>Net General Fund Revenues</u>	<u>Debt Limit</u>
2009-2010	\$4,841,194,658	
2010-2011	\$5,102,646,283	
2011-2012	\$5,648,800,650	
2012-2013	\$5,960,809,000	\$ 961,546,231
2013-2014	\$6,253,585,000	\$1,030,589,116
2014-2015	\$6,642,356,000	\$1,101,563,670
2015-2016	\$6,722,192,000	\$1,162,832,917
2016-2017	(not applicable)	\$1,209,784,868

For fiscal years 2012-2013, 2013-2014, 2014-2015, 2015-2016, and 2016-2017, respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 2009-2010, 2010-2011, and 2011-2012 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 2012, dated October 18, 2012. The net general fund revenues for fiscal years 2012-2013 to 2015-2016 are estimates, based on general fund revenue estimates made as of March 13, 2013, by the council on revenues, the body assigned by article VII, section 7 of the state constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit.
- (A) According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds, after the exclusions permitted by article VII,

section 13 of the state constitution, for determining the power of the State to issue general obligation bonds within the debt limit as of April 1, 2013, is as follows for fiscal year 2013-2014 to fiscal year 2019-2020:

Fiscal Year	Principal and Interest
2013-2014	\$685,973,183
2014-2015	649,399,252
2015-2016	624,628,042
2016-2017	624,968,865
2017-2018	586,323,791
2018-2019	545,902,049
2019-2020	476,253,659

The department of budget and finance further reports that the amount of principal and interest on outstanding bonds applicable to the debt limit generally continues to decline each year from fiscal year 2020-2021 to fiscal year 2032-2033 when the final installment of \$40,847,231 shall be due and payable.

- (B) The department of budget and finance further reports that the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$233,500,000, all or part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to article VII, section 13 of the state constitution.
- (4) Amount of authorized and unissued general obligation bonds and guaranties and proposed bonds and guaranties.
 - (A) As calculated from the state comptroller's bond fund report as of February 28, 2013, adjusted for:
 - (i) Appropriations to be funded by general obligation bonds or reimbursable general obligation bonds as provided in House Bill No. 200, H.D. 1, S.D. 1, C.D. 1¹ (the General Appropriations Act of 2013);
 - (ii) Lapses as provided in House Bill No. 200, H.D. 1, S.D. 1, C.D. 1¹ (the General Appropriations Act of 2013);
 - (iii) Appropriations to be funded by general obligation bonds or reimbursable general obligation bonds as provided in House Bill No. 197, H.D. 2, S.D. 2, C.D. 1² (the Judiciary Appropriations Act of 2013); and
 - (iv) Lapses as provided in House Bill No. 197, H.D. 2, S.D. 2, C.D. 1² (the Judiciary Appropriations Act of 2013);

the total amount of authorized but unissued general obligation bonds is \$1,908,026,247. The total amount of general obligation bonds authorized in this Act is \$1,382,677,000. The total amount of general obligation bonds previously authorized and unissued, as adjusted, and the general obligation bonds authorized in this Act is \$3,290,703,247.
 - (B) As reported by the department of budget and finance the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$233,500,000, all or part of which is excludable in determining the power of the State to issue gen-

eral obligation bonds, pursuant to article VII, section 13 of the state constitution.

- (5) Proposed general obligation bond issuance. As reported therein for the fiscal years 2012-2013, 2013-2014, 2014-2015, 2015-2016, and 2016-2017, the State proposed to issue \$305,000,000 in general obligation bonds during the remainder of the second half of fiscal year 2012-2013, \$400,000,000 in general obligation bonds semiannually during fiscal years 2013-2014 and 2014-2015, \$375,000,000 in general obligation bonds during the first half of fiscal year 2015-2016, \$325,000,000 in general obligation bonds during the second half of fiscal year 2015-2016, and \$350,000,000 in general obligation bonds semiannually during fiscal year 2016-2017. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning in the fifth year, the bonds payable in substantially equal annual installments of principal and interest payment with interest payments commencing six months from the date of issuance and being paid semi-annually thereafter. It is assumed that this practice will continue to be applied to the bonds that are proposed to be issued.
- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds that the State proposes to issue during the fiscal years 2012-2013 to 2015-2016 is \$2,605,000,000. An additional \$700,000,000 is proposed to be issued in fiscal year 2016-2017. The total amount of \$2,605,000,000 which is proposed to be issued through fiscal year 2015-2016 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, the total amount of which is \$3,290,703,247 reported in paragraph (4), except for \$685,703,247. It is assumed that the appropriations to which an additional \$685,703,247 in bond issuance needs to be applied will have been encumbered as of June 30, 2016. The \$700,000,000 which is proposed to be issued in fiscal year 2016-2017 will be sufficient to meet the requirements of the June 30, 2016 encumbrances in the amount of \$685,703,247. The amount of assumed encumbrances as of June 30, 2016 is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of authorized and unissued bonds, as adjusted, and the bonds authorized by this Act versus the amount of bonds proposed to be issued by June 30, 2016, and the amount of June 30, 2016 encumbrances versus the amount of bonds proposed to be issued in fiscal year 2016-2017, the legislature finds that in the aggregate, the amount of bonds proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.
- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds.
 - (A) General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which

are excludable from the amount of each proposed bond issued because:

- (i) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
- (ii) Not all reimbursable general obligation bonds may qualify for exclusion.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, according to the department of budget and finance, the average proportion of principal and interest which is excludable each year from the calculation against the debt limit is 0.87 per cent for approximately ten years from fiscal year 2012-2013 to fiscal year 2021-2022. For the purpose of this declaration, the assumption is made that 0.75 per cent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative.

- (B) Bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor can be excluded but only to the extent the principal amount of such guaranties does not exceed seven per cent of the principal amount of outstanding general obligation bonds not otherwise excluded under subparagraph (A) of this paragraph (7) and provided that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State as provided by law. According to the department of budget and finance and the assumptions presented herein, the total principal amount of outstanding general obligation bonds and general obligation bonds proposed to be issued, which are not otherwise excluded under article VII, section 13 of the state constitution for the fiscal years 2012-2013, 2013-2014, 2014-2015, 2015-2016, and 2016-2017 are as follows:

Total amount of General Obligation Bonds not otherwise excluded by Article VII, Section 13 of the State Constitution	
<u>Fiscal year</u>	
2012-2013	5,925,545,000
2013-2014	6,719,545,000
2014-2015	7,513,545,000
2015-2016	8,208,300,000
2016-2017	8,903,050,000

Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when such guaranty changes from a contingent liability to an actual liability, the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which does not exceed seven per cent of the average amount set forth in the last column of the above table and for which reserve funds have been or will have been established as heretofore provided, can be excluded in determining the power of the State to issue general obligation

bonds. As it is not possible to predict with a reasonable degree of certainty when a guaranty will change from a contingent liability to an actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to Article VII, Section 13 of the State Constitution will become due and payable in the same fiscal year in which the greatest amount of principal and interest on general obligation bonds, after exclusions, occurs. Thus, based on such assumptions and on the determination in paragraph (8), all of the outstanding guaranties can be excluded.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at a net average interest rate, after giving effect to federal subsidy payments, if any, received by the State under and pursuant to the American Recovery and Reinvestment Act of 2009, as may be amended from time to time, not to exceed 5.25 per cent, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, general obligation bonds, and instruments of indebtedness under which the State incurs a contingent liability as a guarantor authorized in this Act, will not cause the debt limit to be exceeded at the time of such issuance:

<u>Time of Issuance and Amount to be Counted Against Debt Limit</u>	<u>Debt Limit at Time of Issuance</u>	<u>Greatest Amount and Year of Highest Principal and Interest on Bonds and Guaranties</u>	
2nd half FY 2012-2013 \$302,712,500	961,546,231	693,592,175	2013-2014
1st half FY 2013-2014 \$397,000,000	1,030,589,116	693,592,175	2013-2014
2nd half FY 2013-2014 \$397,000,000	1,030,589,116	693,592,175	2013-2014
1st half FY 2014-2015 \$397,000,000	1,101,563,670	708,961,122	2016-2017
2nd half FY 2014-2015 \$397,000,000	1,101,563,670	729,803,622	2016-2017
1st half FY 2015-2016 \$372,190,000	1,162,832,917	739,573,609	2016-2017
2nd half FY 2015-2016 \$322,565,000	1,162,832,917	739,573,609	2016-2017
1st half FY 2016-2017 \$347,375,000	1,209,784,868	749,345,042	2018-2019
2nd half FY 2016-2017 \$347,375,000	1,209,784,868	767,582,229	2018-2019

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act, and for all bonds authorized and unissued, and calculated for all bonds issued and outstanding, and all guaranties, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 2. The legislature finds the bases for the declaration of findings set forth in this Act are reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be issued, the amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being the understanding of the legislature that such matters must remain subject to substantial flexibility.

SECTION 3. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in House Bill No. 200, H.D. 1, S.D. 1, C.D. 1¹ (the General Appropriations Act of 2013) and House Bill No. 197, H.D. 2, S.D. 2, C.D. 1² (the Judiciary Appropriations Act of 2013), passed by the legislature during this regular session of 2013 and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of general obligation bonds so issued shall not exceed \$1,382,677,000.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with Section 39-16, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

SECTION 4. The provisions of this Act are declared to be severable and if any portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

SECTION 5. In printing this Act, the revisor of statutes shall substitute in section 1 and section 3 the corresponding act numbers for bills identified therein.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 18, 2013.)

Notes

1. Act 134.
2. Act 133.

ACT 133

H.B. NO. 197

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

PART I. GENERAL PROVISIONS

SECTION 1. This Act shall be known and may be cited as the Judiciary Appropriations Act of 2013.

SECTION 2. Unless otherwise clear from the context, as used in this Act:

“Program ID” means the unique identifier for the specific program, and consists of the abbreviation for the judiciary (JUD) followed by a designated number for the program.

“Means of Financing”, or “MOF”, means the source from which funds are appropriated, or authorized, as the case may be, to be expended for the pro-

grams and projects specified in this Act. All appropriations are followed by letter symbols. The letter symbols, where used, shall have the following meanings:

- A General funds
- B Special funds
- C General obligation bond funds
- N Federal funds
- W Revolving funds

"Position ceiling" means the maximum number of permanent positions authorized for a particular program during a specified period or periods, as noted by an asterisk.

PART II. PROGRAM APPROPRIATIONS

SECTION 3. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated or authorized from the sources of funding specified to the judiciary for the fiscal biennium beginning July 1, 2013, and ending June 30, 2015. The total expenditures and the number of permanent positions established in each fiscal year of the fiscal biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided in this Act.

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2013-2014	M O F
The Judicial System					
1.	JUD101	COURTS OF APPEAL			
	OPERATING		JUD	71.00 * 6,155,459 A	71.00 * 6,155,459 A
2.	JUD310	FIRST JUDICIAL CIRCUIT			
	OPERATING		JUD	1,065.50 * 75,566,698 A	1,065.50 * 75,257,274 A
			JUD	41.00 * 4,002,620 B	41.00 * 4,002,620 B
3.	JUD320	SECOND JUDICIAL CIRCUIT			
	OPERATING		JUD	207.00 * 15,098,670 A	207.00 * 15,098,670 A
4.	JUD330	THIRD JUDICIAL CIRCUIT			
	OPERATING		JUD	227.00 * 17,958,784 A	227.00 * 17,958,784 A
5.	JUD350	FIFTH JUDICIAL CIRCUIT			
	OPERATING		JUD	99.00 * 6,894,905 A	99.00 * 6,894,905 A
6.	JUD501	JUDICIAL SELECTION COMMISSION			
	OPERATING		JUD	1.00 * 88,857 A	1.00 * 88,857 A
7.	JUD601	ADMINISTRATION			
	OPERATING		JUD	226.00 * 23,767,504 A	226.00 * 22,958,656 A
				1.00 *	1.00 *

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O	FISCAL M YEAR O
				2013-2014 F	2014-2015 F
			JUD	7,930,290 B	7,930,290 B
			JUD	343,261 W	343,261 W
		INVESTMENT CAPITAL	JUD	3,425,000 C	11,400,000 C

PART III. PROGRAM PROVISIONS

SECTION 4. Provided that whenever the need arises, the chief justice, in administering an equitable and expeditious judicial process, may transfer sufficient funds and positions between programs for operating purposes; provided further that no transfer shall be made to implement any collective bargaining contract signed after this legislature adjourns sine die.

SECTION 5. Provided that if the chief justice, any agency, or any government unit secures federal funds or other property under any act of Congress, or any funds or other property from private organizations or individuals that are to be expended in connection with any program or works authorized by this Act, or otherwise, the chief justice, or the agency with the chief justice's approval, may enter into the undertaking with the federal government, private organization, or individual.

SECTION 6. Provided that the judiciary is authorized to transfer savings from its general fund appropriation to the driver education special fund to accommodate any temporary cash flow deficits.

PART IV. CAPITAL IMPROVEMENT PROJECTS

SECTION 7. The sum of \$14,825,000 appropriated or authorized in part II of this Act for capital improvement projects shall be expended by the judiciary for the projects listed below; provided that several related or similar projects may be combined into a single project, if a combination is advantageous or convenient for implementation; and provided further that the total cost of the projects thus combined shall not exceed the total of the sums specified for the projects separately. The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars.

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O	FISCAL M YEAR O
				2013-2014 F	2014-2015 F

A. ECONOMIC DEVELOPMENT

JUD601 - ADMINISTRATION

1. KONA JUDICIARY COMPLEX, HAWAII

CONSTRUCTION FOR A NEW JUDICIARY
COMPLEX AT KONA, HAWAII.

CONSTRUCTION

TOTAL FUNDING JUD

C

9,000
9,000 C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
2.		KA'AHUMANU HALE INTERIOR SPACE UTILIZATION REDEVELOPMENT, O'AHU			
		DESIGN FOR INTERIOR SPACE UTILIZATION AND RELATED FACILITY REDEVELOPMENT AT KA'AHUMANU HALE, OAHU.			
		DESIGN		2,800	
		TOTAL FUNDING JUD		2,800C	C
3.		STATUS OFFENDER SHELTER AND JUVENILE SERVICES CENTER, O'AHU			
		PLANS FOR A STATUS OFFENDER SHELTER AND JUVENILE SERVICES CENTER, OAHU.			
		PLANS		250	
		TOTAL FUNDING JUD		250C	C
4.		HOAPILI HALE BUILDING EXTERIOR REMEDIAL IMPROVEMENTS, MAUI			
		DESIGN AND CONSTRUCTION FOR EXTERIOR REMEDIAL IMPROVEMENTS AT HOAPILI HALE, MAUI.			
		DESIGN		300	170
		CONSTRUCTION			1,630
		TOTAL FUNDING JUD		300C	1,800C
5.		HOAPILI HALE EXHAUST MONITORING AND VENTILATION SYSTEMS UPGRADE, MAUI			
		DESIGN AND CONSTRUCTION FOR EXHAUST MONITORING AND VENTILATION SYSTEMS UPGRADE AT HOAPILI HALE, MAUI.			
		DESIGN		75	50
		CONSTRUCTION			550
		TOTAL FUNDING JUD		75C	600C

PART V. ISSUANCE OF BONDS

SECTION 8. General obligation bonds may be issued, as provided by law, to yield the amount that may be necessary to finance projects authorized in part II and listed in part IV of this Act; provided that the sum total of the general obligation bonds so issued shall not exceed \$14,825,000.

PART VI. SPECIAL PROVISIONS

SECTION 9. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital improvement projects authorized in part II and listed in part IV of this Act shall not lapse at the end of the fiscal year for which the appropriations are made; provided that all appropriations made for fiscal year 2013-2014 and fiscal year 2014-2015 that are unencumbered as of June 30, 2016, shall lapse as of that date.

SECTION 10. The judiciary may delegate to other state or county agencies the planning, acquisition of land, design, construction, and equipment of

any capital improvement project when it is determined by the judiciary to be advantageous to do so.

SECTION 11. All unrequired balances in the general obligation bond fund, after the objectives of part II appropriations for capital improvements program purposes listed as projects in part IV of this Act have been met, shall be transferred to the judiciary project adjustment fund.

SECTION 12. If the amount allocated from the general obligation bond fund for a capital improvement project listed in part IV of this Act is insufficient, the chief justice may make supplemental allotments from the project adjustment fund; provided that supplemental allotments shall not be used to increase the scope of the project.

SECTION 13. Where it has been determined that changed conditions, such as a reduction in the size of the particular population being served, permit the reduction in the scope of a project listed in part IV of this Act, the chief justice may authorize the reduction of the project scope.

SECTION 14. The chief justice shall determine when and the manner in which the authorized capital improvement projects shall be initiated. The chief justice shall notify the governor from time to time of the specific amounts required for the projects, and the governor shall provide for those amounts through the issuance of bonds authorized in part V of this Act.

SECTION 15. Any law or any provision of this Act to the contrary notwithstanding, the chief justice may supplement funds for any cost element for a capital improvement project authorized under this Act by transferring such sums as may be needed from the funds appropriated for other cost elements of the same project by this Act or by any other prior or future Act that has not lapsed; provided that the total expenditure of funds for all cost elements for the project shall not exceed the total appropriation for that project.

PART VII. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE

SECTION 16. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, the remainder of the Act and any provision thereof shall not be affected. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and shall be expended to fulfill the objective and intent of the appropriation to the extent possible.

SECTION 17. If any manifest clerical, typographical, or other mechanical error is found in this Act, the chief justice may correct the error. All changes made pursuant to this section shall be reported to the legislature at its next regular session.

SECTION 18. This Act shall take effect on July 1, 2013.

(Approved June 18, 2013.)

A Bill for an Act Relating to the State Budget.

Be It Enacted by the Legislature of the State of Hawaii:

PART I. GENERAL PROVISIONS

SECTION 1. SHORT TITLE. This Act shall be known and may be cited as the General Appropriations Act of 2013.

SECTION 2. DEFINITIONS. Unless otherwise clear from the context, as used in this Act:

(a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the organization responsible for carrying out the program, followed by the organization number for the program.

(b) "Expending agency" means the executive department, independent commission, bureau, office, board, or other establishment of the state government (other than the legislature, office of Hawaiian affairs, and judiciary), the political subdivisions of the State, or any quasi-public institution supported in whole or in part by state funds, which is authorized to expend specified appropriations made by this Act.

Abbreviations where used to denote the expending agency shall mean the following:

AGR	Department of Agriculture
AGS	Department of Accounting and General Services
ATG	Department of the Attorney General
BED	Department of Business, Economic Development and Tourism
BUF	Department of Budget and Finance
CCA	Department of Commerce and Consumer Affairs
DEF	Department of Defense
EDN	Department of Education
GOV	Office of the Governor
HHL	Department of Hawaiian Home Lands
HMS	Department of Human Services
HRD	Department of Human Resources Development
HTH	Department of Health
LBR	Department of Labor and Industrial Relations
LNR	Department of Land and Natural Resources
LTG	Office of the Lieutenant Governor
PSD	Department of Public Safety
SUB	Subsidies
TAX	Department of Taxation
TRN	Department of Transportation
UOH	University of Hawaii
CCH	City and County of Honolulu
COH	County of Hawaii
COK	County of Kauai
COM	County of Maui

(c) "Means of financing" (or "MOF") means the source from which funds are appropriated or authorized to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meanings:

- A general funds
- B special funds
- C general obligation bond fund
- D general obligation bond fund with debt service cost to be paid from special funds
- E revenue bond funds
- J federal aid interstate funds
- K federal aid primary funds
- L federal aid secondary funds
- M federal aid urban funds
- N federal funds
- P other federal funds *STATES APPLY TO RECTOE*
- R private contributions
- S county funds
- T trust funds
- U interdepartmental transfers
- V federal stimulus funds
- W revolving funds
- X other funds

(d) "Position ceiling" means the maximum number of permanent positions that an expending agency is authorized for a particular program during a specified period or periods, as denoted by an asterisk.

(e) "Capital project number" means the official number of the capital project, as assigned by the responsible organization.

PART II. PROGRAM APPROPRIATIONS

SECTION 3. APPROPRIATIONS. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are hereby appropriated or authorized, as the case may be, from the means of financing specified to the expending agencies designated for the fiscal biennium beginning July 1, 2013 and ending June 30, 2015. The total expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the number indicated for each fiscal year, except as provided elsewhere in this Act, or as provided by general law.

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O	FISCAL M YEAR O
				2013-2014 F	2014-2015 F
A. ECONOMIC DEVELOPMENT					
1.	BED100 - STRATEGIC MARKETING & SUPPORT				
	OPERATING		BED	10.00 * 1,247,934 A	10.00 * 1,187,057 A
			BED	1,821,915 W	1,821,915 W
			BED	703,505 P	1,000,000 P
2.	BED105 - CREATIVE INDUSTRIES DIVISION				
	OPERATING		BED	11.00 * 1,652,235 A	11.00 * 988,069 A
	INVESTMENT CAPITAL		AGS	3,460,000 C	C
			BED	250,000 C	C

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
3.		BED107 - FOREIGN TRADE ZONE			
		OPERATING	BED	17.00 *	17.00 *
		INVESTMENT CAPITAL	BED	2,066,145 B	2,066,145 B
			BED	2,200,000 C	C
			BED	3,000,000 D	D
4.		BED142 - GENERAL SUPPORT FOR ECONOMIC DEVELOPMENT			
		OPERATING	BED	24.00 *	24.00 *
				1,667,257 A	1,690,045 A
5.		BED113 - TOURISM			
		OPERATING	BED	5.00 *	5.00 *
				141,162,298 B	141,162,298 B
6.		AGR101 - FINANCIAL ASSISTANCE FOR AGRICULTURE			
		OPERATING	AGR	750,000 A	A
				9.00 *	9.00 *
			AGR	1,089,967 B	1,089,967 B
			AGR	5,500,000 W	5,500,000 W
7.		AGR122 - PLANT, PEST, AND DISEASE CONTROL			
		OPERATING	AGR	87.00 *	87.00 *
				5,306,588 A	5,455,104 A
				42.00 *	42.00 *
			AGR	8,752,936 B	8,752,936 B
			AGR	672,380 N	672,380 N
			AGR	512,962 T	512,962 T
			AGR	44,270 U	44,270 U
			AGR	50,360 W	50,360 W
8.		AGR131 - RABIES QUARANTINE			
		OPERATING	AGR	36.32 *	36.32 *
				3,281,623 B	3,281,623 B
9.		AGR132 - ANIMAL DISEASE CONTROL			
		OPERATING	AGR	13.68 *	13.68 *
				1,497,780 A	1,497,780 A
				5.00 *	5.00 *
			AGR	159,527 B	281,052 B
			AGR	377,518 N	377,518 N
10.		LNR172 - FORESTRY RESOURCE MANAGEMENT AND DEVELOPMENT			
		OPERATING	LNR	15.00 *	15.00 *
				1,303,023 A	1,303,023 A
				2.50 *	2.50 *
			LNR	3,637,996 B	3,637,996 B
				1.50 *	1.50 *
		INVESTMENT CAPITAL	LNR	4,542,847 P	4,542,847 P
			LNR	280,000 C	740,000 C
11.		AGR151 - QUALITY AND PRICE ASSURANCE			
		OPERATING	AGR	16.00 *	16.00 *
				1,193,246 A	1,193,246 A
				3.00 *	3.00 *
			AGR	374,738 B	374,738 B
			AGR	77,424 N	77,424 N
			AGR	300,000 T	300,000 T
			AGR	502,559 W	502,559 W
12.		AGR171 - AGRICULTURAL DEVELOPMENT AND MARKETING			
				14.00 *	14.00 *

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
		OPERATING	AGR	1,562,275 A	1,629,367 A
			AGR	20,000 B	20,000 B
			AGR	184,500 N	184,500 N
13.	AGR141	- AGRICULTURAL RESOURCE MANAGEMENT			
				6.00 *	6.00 *
		OPERATING	AGR	750,643 A	911,887 A
				23.50 *	23.50 *
			AGR	2,116,000 B	2,116,000 B
				7.50 *	7.50 *
			AGR	1,127,933 W	1,127,933 W
		INVESTMENT CAPITAL	AGR	20,900,000 C	11,100,000 C
			AGR	6,700,000 N	1,500,000 N
			AGR	3,000,000 S	S
14.	AGR161	- AGRIBUSINESS DEVELOPMENT AND RESEARCH			
		OPERATING	AGR	650,601 A	50,601 A
			AGR	500,000 B	500,000 B
			AGR	3,397,691 W	3,397,691 W
		INVESTMENT CAPITAL	AGR	13,500,000 C	C
			AGR	175,000,000 E	E
15.	AGR192	- GENERAL ADMINISTRATION FOR AGRICULTURE			
				22.00 *	22.00 *
		OPERATING	AGR	1,489,886 A	1,531,076 A
				5.00 *	5.00 *
			AGR	299,315 B	326,280 B
		INVESTMENT CAPITAL	AGS	1,000,000 C	3,000,000 C
16.	LNR153	- FISHERIES AND RESOURCE ENHANCEMENT			
				7.00 *	7.00 *
		OPERATING	LNR	561,741 A	561,741 A
				1.00 *	1.00 *
			LNR	303,474 B	303,474 B
			LNR	383,305 N	383,305 N
				3.00 *	3.00 *
			LNR	367,000 P	367,000 P
17.	AGR153	- AQUACULTURE DEVELOPMENT PROGRAM			
				4.00 *	4.00 *
		OPERATING	AGR	310,405 A	310,405 A
			AGR	125,000 B	125,000 B
			AGR	46,134 N	46,134 N
18.	BED120	- ENVIRONMENT AND ENERGY DEVELOPMENT			
				5.00 *	5.00 *
		OPERATING	BED	5,694,305 B	5,339,305 B
			BED	1,750,000 N	1,750,000 N
			BED	151,535 V	V
			BED	1,545,000 P	1,495,000 P
19.	BED143	- HIGH TECHNOLOGY DEVELOPMENT CORPORATION			
				1.50 *	1.50 *
		OPERATING	BED	1,030,588 A	1,030,588 A
				1.50 *	1.50 *
			BED	3,755,410 B	3,755,410 B
			BED	1,500,000 W	1,500,000 W
			BED	15,989,710 P	15,989,710 P
20.	BED145	- HAWAII STRATEGIC DEVELOPMENT CORPORATION			
		OPERATING	BED	2,608,516 B	2,608,516 B
			BED	4,289,649 W	4,289,649 W

PROGRAM APPROPRIATIONS

				APPROPRIATIONS	
ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
21.	BED146 - NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY				
	OPERATING		BED	7,672,917 B	7,672,917 B
	INVESTMENT CAPITAL		BED	12,017,000 C	C
22.	LNR141 - WATER AND LAND DEVELOPMENT				
	OPERATING		LNR	1.50 * 202,750 A	1.50 * 202,750 A
			LNR	4.00 * 613,103 B	4.00 * 613,103 B
			LNR	188,181 W	188,181 W
	INVESTMENT CAPITAL		LNR	3,750,000 C	5,300,000 C
23.	BED150 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY				
	OPERATING		BED	2.00 * 1,086,818 W	2.00 * 1,086,818 W
	INVESTMENT CAPITAL		BED	2,155,000 C	2,555,000 C
24.	BED160 - HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION				
	OPERATING		BED	3,000,000 N	3,000,000 N
			BED	21,923,698 T	21,923,698 T
			BED	31.00 * 6,874,086 W	31.00 * 6,874,086 W
			BED	6,677,735 P	6,677,735 P
	INVESTMENT CAPITAL		BED	8,300,000 C	13,500,000 C
25.	BED128 - OFFICE OF AEROSPACE				
	OPERATING		BED	809,136 A	809,136 A

B. EMPLOYMENT

1.	LBR111 - WORKFORCE DEVELOPMENT PROGRAM				
	OPERATING		LBR	0.20 * 101,259 A	0.20 * 101,259 A
			LBR	5,940,010 B	5,940,010 B
				115.80 * 50,776,769 N	115.80 * 50,776,769 N
			LBR	1,505,580 U	1,505,580 U
2.	LBR135 - WORKFORCE DEVELOPMENT COUNCIL				
	OPERATING		LBR	0.10 * 11,577 A	0.10 * 11,577 A
				0.90 * 593,784 N	0.90 * 593,784 N
3.	LBR171 - UNEMPLOYMENT INSURANCE PROGRAM				
	OPERATING		LBR	361,191,310 B	361,191,310 B
				251.50 * 18,501,347 N	251.50 * 18,501,347 N
4.	LBR903 - OFFICE OF COMMUNITY SERVICES				
	OPERATING		LBR	2.00 * 4,330,645 A	2.00 * 1,841,633 A
				2.00 * 5,882,044 N	2.00 * 5,882,044 N
			LBR	1,200,000 U	1,200,000 U
	INVESTMENT CAPITAL		LBR	2,000,000 B	B
			LBR	400,000 C	C
			LBR	11,750,000 C	C

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
5.	LBR905 - HI CAREER (KOKUA) INFORMATION DELIVERY SYS OPERATING		LBR	128,553 A	128,553 A
			LBR	30,939 N	30,939 N
6.	HMS802 - VOCATIONAL REHABILITATION			36.27 *	36.27 *
	OPERATING		HMS	4,059,129 A	4,009,129 A
				68.23 *	68.23 *
			HMS	13,820,795 N	13,820,795 N
			HMS	1,330,200 W	1,330,200 W
7.	LBR143 - HAWAII OCCUPATIONAL SAFETY AND HEALTH PROGRAM			15.50 *	15.50 *
	OPERATING		LBR	896,506 A	896,506 A
				22.00 *	22.00 *
			LBR	2,867,932 B	2,867,932 B
				17.50 *	17.50 *
			LBR	1,816,684 N	1,816,684 N
			LBR	70,000 W	70,000 W
8.	LBR152 - WAGE STANDARDS PROGRAM			17.00 *	17.00 *
	OPERATING		LBR	983,731 A	983,731 A
9.	LBR153 - HAWAII CIVIL RIGHTS COMMISSION			21.50 *	21.50 *
	OPERATING		LBR	1,344,804 A	1,344,804 A
				0.50 *	0.50 *
			LBR	324,087 N	324,087 N
10.	LBR183 - DISABILITY COMPENSATION PROGRAM			84.00 *	84.00 *
	OPERATING		LBR	4,313,375 A	4,527,375 A
				9.00 *	9.00 *
			LBR	23,821,406 B	23,851,406 B
11.	LBR161 - HAWAII LABOR RELATIONS BOARD			1.00 *	1.00 *
	OPERATING		LBR	608,550 A	648,552 A
12.	LBR812 - LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD			9.00 *	9.00 *
	OPERATING		LBR	782,657 A	782,657 A
13.	LBR871 - EMPLOYMENT SECURITY APPEALS REFEREES' OFFICE			12.00 *	12.00 *
	OPERATING		LBR	897,274 N	897,274 N
14.	LBR901 - DATA GATHERING, RESEARCH, AND ANALYSIS			3.88 *	3.88 *
	OPERATING		LBR	232,751 A	243,751 A
				27.12 *	27.12 *
			LBR	2,447,213 N	2,462,213 N
15.	LBR902 - GENERAL ADMINISTRATION			20.52 *	20.52 *
	OPERATING		LBR	1,330,064 A	1,330,064 A
			LBR	200,000 B	200,000 B
				30.48 *	30.48 *
			LBR	3,171,930 N	3,171,930 N

PROGRAM APPROPRIATIONS

				APPROPRIATIONS	
ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	FISCAL M	FISCAL M
				YEAR O	YEAR O
				2013-2014 F	2014-2015 F
C. TRANSPORTATION FACILITIES					
1.	TRN102 - HONOLULU INTERNATIONAL AIRPORT				
	OPERATING		TRN	618.50*	618.50*
	INVESTMENT CAPITAL		TRN	137,870,921 B	138,626,074 B
			TRN	120,277,000 E	64,500,000 E
			TRN	6,400,000 N	N
			TRN	16,080,000 X	X
2.	TRN104 - GENERAL AVIATION				
	OPERATING		TRN	30.00*	30.00*
			TRN	5,946,642 B	6,546,642 B
				3,000,000 N	4,200,000 N
3.	TRN111 - HILO INTERNATIONAL AIRPORT				
	OPERATING		TRN	82.00*	82.00*
	INVESTMENT CAPITAL		TRN	14,884,419 B	14,534,419 B
			TRN	10,000 B	B
			TRN	3,000,000 C	C
			TRN	11,640,000 E	E
			TRN	27,625,000 N	N
			TRN	4,125,000 X	X
4.	TRN114 - KONA INTERNATIONAL AIRPORT AT KE'AHOLE				
	OPERATING		TRN	86.00*	86.00*
	INVESTMENT CAPITAL		TRN	18,308,869 B	17,458,472 B
			TRN	10,000 B	B
			TRN	71,500,000 E	36,000,000 E
			TRN	5,899,000 X	X
5.	TRN116 - WAIMEA-KOHALA AIRPORT				
	OPERATING		TRN	6.00*	6.00*
				992,167 B	1,117,167 B
6.	TRN118 - UPOLU AIRPORT				
	OPERATING		TRN		
			TRN	374,500 B	319,500 B
				300,000 N	150,000 N
7.	TRN131 - KAHULUI AIRPORT				
	OPERATING		TRN	162.00*	162.00*
	INVESTMENT CAPITAL		TRN	24,401,111 B	23,526,111 B
			TRN	7,500,000 E	E
			TRN	22,500,000 N	N
			TRN	10,000,000 X	X
			TRN	20,000,000 X	X
8.	TRN133 - HANA AIRPORT				
	OPERATING		TRN	9.00*	9.00*
				946,912 B	596,912 B
9.	TRN135 - KAPALUA AIRPORT				
	OPERATING		TRN	11.00*	11.00*
				1,671,340 B	1,971,340 B
10.	TRN141 - MOLOKAI AIRPORT				
	OPERATING		TRN	13.00*	13.00*
				2,419,835 B	2,744,835 B
11.	TRN143 - KALAUPAPA AIRPORT				
	OPERATING		TRN	9.00*	9.00*
				630,691 B	630,691 B

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
12.	TRN151	LANAI AIRPORT			
		OPERATING	TRN	10.00* 1,960,713 B	10.00* 2,310,713 B
13.	TRN161	LIHUE AIRPORT			
		OPERATING	TRN	101.00* 17,161,779 B	101.00* 17,121,779 B
14.	TRN163	PORT ALLEN AIRPORT			
		OPERATING	TRN TRN	51,841 B 150,000 N	1,841 B N
15.	TRN195	AIRPORTS ADMINISTRATION			
		OPERATING	TRN	117.00* 190,589,291 B	117.00* 223,014,009 B
		INVESTMENT CAPITAL	TRN TRN TRN TRN TRN TRN	12,450,000 B 2,500,000 E 80,000,000 E 7,500,000 N 100,000 X	11,450,000 B 2,500,000 E E 7,500,000 N 100,000 X
16.	TRN301	HONOLULU HARBOR			
		OPERATING	TRN	116.00* 24,513,583 B	116.00* 24,674,362 B
		INVESTMENT CAPITAL	TRN	250,000,000 E	E
17.	TRN303	KALAELOA BARBERS POINT HARBOR			
		OPERATING	TRN	3.00* 2,100,189 B	3.00* 1,581,342 B
		INVESTMENT CAPITAL	TRN TRN	250,000 B 1,000,000 E	150,000 B 2,000,000 E
18.	TRN311	HILO HARBOR			
		OPERATING	TRN	14.00* 2,828,357 B	14.00* 2,739,457 B
		INVESTMENT CAPITAL	TRN	925,000 B	75,000 B
19.	TRN313	KAWAIHAE HARBOR			
		OPERATING	TRN	2.00* 1,338,031 B	2.00* 1,263,031 B
20.	TRN331	KAHULUI HARBOR			
		OPERATING	TRN	18.00* 3,916,632 B	18.00* 3,571,632 B
		INVESTMENT CAPITAL	TRN	5,000,000 E	1,000,000 E
21.	TRN341	KAUNAKAKAI HARBOR			
		OPERATING	TRN	1.00* 591,915 B	1.00* 591,915 B
22.	TRN361	NAWILIWILI HARBOR			
		OPERATING	TRN	15.00* 2,891,457 B	15.00* 2,792,157 B
23.	TRN363	PORT ALLEN HARBOR			
		OPERATING	TRN	1.00* 406,588 B	1.00* 406,588 B
24.	TRN351	KAUMALAPAU HARBOR			
		OPERATING	TRN	265,000 B	265,000 B

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
25.	TRN395 -	HARBORS ADMINISTRATION			
		OPERATING	TRN	71.00*	71.00*
		INVESTMENT CAPITAL	TRN	53,365,161 B	53,413,132 B
			TRN	10,400,000 B	10,400,000 B
			TRN	6,735,000 E	6,735,000 E
			TRN	2,000,000 P	2,000,000 P
26.	TRN333 -	HANA HARBOR			
		OPERATING	TRN	42,519 B	42,519 B
		INVESTMENT CAPITAL	TRN	20,500,000 E	E
27.	TRN501 -	OAHU HIGHWAYS			
		OPERATING	TRN	224.00*	224.00*
			TRN	100,989,427 B	101,009,053 B
			TRN	3,100,000 N	3,100,000 N
		INVESTMENT CAPITAL	TRN	85,916,000 E	18,864,000 E
			TRN	16,864,000 N	38,736,000 N
			TRN	1,419,000 R	R
28.	TRN511 -	HAWAII HIGHWAYS			
		OPERATING	TRN	124.00*	124.00*
		INVESTMENT CAPITAL	TRN	27,921,711 B	27,921,711 B
			TRN	30,013,000 E	2,262,000 E
			TRN	36,424,000 N	5,448,000 N
29.	TRN531 -	MAUI HIGHWAYS			
		OPERATING	TRN	81.00*	81.00*
		INVESTMENT CAPITAL	TRN	30,044,244 B	29,701,244 B
			TRN	4,857,000 E	2,435,000 E
			TRN	9,105,000 N	6,419,000 N
			TRN	1,250,000 S	S
30.	TRN561 -	KAUAI HIGHWAYS			
		OPERATING	TRN	51.00*	51.00*
		INVESTMENT CAPITAL	TRN	17,751,786 B	17,846,977 B
			TRN	6,251,000 E	8,875,000 E
			TRN	2,891,000 N	21,667,000 N
31.	TRN595 -	HIGHWAYS ADMINISTRATION			
		OPERATING	TRN	86.00*	86.00*
			TRN	85,489,148 B	86,513,975 B
			TRN	5,272,500 N	4,407,000 N
			TRN	30,000 P	30,000 P
		INVESTMENT CAPITAL	TRN	16,000,000 B	16,000,000 B
			TRN	10,684,000 E	7,994,000 E
			TRN	23,861,000 N	31,176,000 N
32.	TRN597 -	HIGHWAY SAFETY			
		OPERATING	TRN	35.20*	35.20*
			TRN	10,407,643 B	10,407,643 B
			TRN	6.00*	6.00*
			TRN	5,092,452 N	5,092,452 N
			TRN	0.80*	0.80*
			TRN	841,139 P	841,139 P
33.	TRN995 -	GENERAL ADMINISTRATION			
		OPERATING	TRN	106.00*	106.00*
			TRN	17,234,930 B	16,677,402 B
			TRN	33,322,784 N	33,322,784 N
			TRN	423,067 R	423,067 R

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
34.	TRN695 - ALOHA TOWER DEVELOPMENT CORPORATION	OPERATING	TRN	1,800,368 B	1,829,736 B
D. ENVIRONMENTAL PROTECTION					
1.	HTH840 - ENVIRONMENTAL MANAGEMENT				
	OPERATING	HTH		36.00 * 2,604,474 A 64.00 * 81,068,234 B 37.80 * 7,709,657 N 2.00 * 174,454 U 50.20 * 164,322,698 W 8.00 *	36.00 * 2,604,474 A 64.00 * 81,085,081 B 37.80 * 7,709,657 N 2.00 * 174,454 U 50.20 * 164,456,768 W 8.00 *
	INVESTMENT CAPITAL	HTH		1,588,478 P	1,588,478 P
		HTH		4,025,000 C	4,025,000 C
		HTH		20,071,000 N	20,071,000 N
2.	AGR846 - PESTICIDES				
	OPERATING	AGR		8.00 * 496,810 A 2.00 * 475,561 N 8.00 * 1,101,976 W	8.00 * 496,810 A 2.00 * 475,561 N 8.00 * 1,101,976 W
3.	LNR401 - AQUATIC RESOURCES				
	OPERATING	LNR		29.25 * 2,485,808 A 1.00 * 1,416,709 N 0.75 * 2,062,000 P	29.25 * 2,485,808 A 1.00 * 1,198,211 N 0.75 * 2,280,498 P
4.	LNR402 - NATIVE RESOURCES AND FIRE PROTECTION PROGRAM				
	OPERATING	LNR		49.50 * 3,722,025 A 3,405,749 B 5.50 * 3,628,155 N 136,197 T 1,500,000 U 5.00 * 5,313,645 P 3,014,000 C	49.50 * 3,722,025 A 3,405,749 B 5.50 * 3,628,155 N 136,197 T 1,500,000 U 5.00 * 5,313,645 P 8,537,000 C
5.	LNR404 - WATER RESOURCES				
	OPERATING	LNR		19.00 * 2,273,185 A 3.00 * 691,818 B 1,500,000 C	19.00 * 2,273,185 A 3.00 * 691,818 B C
6.	LNR405 - CONSERVATION AND RESOURCES ENFORCEMENT				
	OPERATING	LNR		109.25 * 6,376,656 A 18.00 *	109.25 * 6,376,656 A 18.00 *

PROGRAM APPROPRIATIONS

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
			LNR	2,176,083 B	2,176,083 B
				1.75 *	1.75 *
			LNR	458,259 N	458,259 N
				1.00 *	1.00 *
			LNR	108,114 W	108,114 W
			LNR	1,009,855 P	1,009,855 P
7.	LNR407 - NATURAL AREA RESERVES AND WATERSHED MANAGEMENT				
				18.00 *	18.00 *
	OPERATING		LNR	4,222,575 A	722,575 A
				10.50 *	10.50 *
			LNR	7,195,731 B	7,195,731 B
			LNR	761 N	761 N
				0.50 *	0.50 *
	INVESTMENT CAPITAL		LNR	1,637,269 P	1,637,269 P
			LNR	6,500,000 C	4,500,000 C
8.	HTH850 - OFFICE OF ENVIRONMENTAL QUALITY CONTROL				
				5.00 *	5.00 *
	OPERATING		HTH	344,488 A	344,488 A
9.	LNR906 - LNR - NATURAL AND PHYSICAL ENVIRONMENT				
				31.00 *	31.00 *
	OPERATING		LNR	1,965,578 A	1,865,578 A
				13.00 *	13.00 *
			LNR	1,432,431 B	1,467,447 B
	INVESTMENT CAPITAL		LNR	2,597,000 C	2,597,000 C
10.	HTH849 - ENVIRONMENTAL HEALTH ADMINISTRATION				
				10.00 *	10.00 *
	OPERATING		HTH	1,243,616 A	1,243,616 A
				0.50 *	0.50 *
			HTH	48,271 B	48,271 B
				5.50 *	5.50 *
			HTH	579,620 N	579,620 N
				26.00 *	26.00 *
			HTH	4,227,399 W	4,227,399 W
				9.00 *	9.00 *
			HTH	2,601,187 P	2,601,187 P
E. HEALTH					
1.	HTH100 - COMMUNICABLE DISEASE SERVICES				
				249.87 *	249.87 *
	OPERATING		HTH	24,288,286 A	24,238,286 A
			HTH	90,720 B	90,720 B
			HTH	3,507,482 N	3,507,482 N
			HTH	131,746 U	131,746 U
				16.00 *	16.00 *
			HTH	4,834,498 P	4,834,498 P
2.	HTH131 - DISEASE OUTBREAK CONTROL				
				20.60 *	20.60 *
	OPERATING		HTH	1,613,768 A	1,613,768 A
				31.40 *	31.40 *
			HTH	10,736,954 N	10,736,954 N
			HTH	1,143,691 P	1,143,691 P

PROGRAM APPROPRIATIONS

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				FISCAL YEAR 2013-2014	FISCAL YEAR 2014-2015
3.	HTH730 - EMERGENCY MEDICAL SERVICES AND INJURY PREVENTION SYSTEM				
	OPERATING		HTH	13.00 * 57,191,251 A	13.00 * 55,891,251 A
			HTH	20,072,874 B	26,416,707 B
			HTH	10,563 N	10,563 N
				3.00 *	3.00 *
			HTH	1,072,116 P	1,072,116 P
4.	HTH560 - FAMILY HEALTH SERVICES				
	OPERATING		HTH	108.00 * 25,296,742 A	108.00 * 23,985,044 A
				14.00 *	14.00 *
			HTH	20,937,704 B	20,969,607 B
				173.00 *	173.00 *
			HTH	45,162,123 N	45,162,123 N
			HTH	203,441 U	203,441 U
				6.50 *	6.50 *
			HTH	8,972,011 P	8,972,011 P
5.	HTH590 - TOBACCO SETTLEMENT				
	OPERATING		HTH	1,552,565 A	2,565 A
				39.00 *	39.00 *
			HTH	50,319,643 B	50,319,643 B
			HTH	1,589,845 U	1,589,845 U
				11.00 *	11.00 *
			HTH	5,335,092 P	5,335,092 P
6.	HTH595 - HEALTH RESOURCES ADMINISTRATION				
	OPERATING		HTH	2.00 * 150,379 A	2.00 * 150,379 A
	INVESTMENT CAPITAL		HTH	5,000,000 C	C
7.	HTH210 - HAWAII HEALTH SYSTEMS CORPORATION - CORPORATE OFFICE				
	OPERATING		HTH	54.50 * 12,509,280 B	54.50 * 12,509,280 B
	INVESTMENT CAPITAL		HTH	14,321,000 C	359,000 C
8.	HTH211 - KAHUKU HOSPITAL				
	OPERATING		HTH	1,500,000 A	1,500,000 A
	INVESTMENT CAPITAL		HTH	1,462,000 C	763,000 C
9.	HTH212 - HAWAII HEALTH SYSTEMS CORPORATION – REGIONS				
	OPERATING		HTH	82,940,000 A	82,940,000 A
				2,780.75 *	2,780.75 *
			HTH	508,583,900 B	508,583,900 B
	INVESTMENT CAPITAL		HTH	40,000,000 C	20,000,000 C
10.	HTH213 - ALII COMMUNITY CARE				
	OPERATING		HTH	2,500,000 B	2,500,000 B
11.	HTH420 - ADULT MENTAL HEALTH - OUTPATIENT				
	OPERATING		HTH	145.50 * 72,810,662 A	145.50 * 72,810,662 A
			HTH	11,610,000 B	11,610,000 B
			HTH	1,632,230 N	1,632,230 N
12.	HTH430 - ADULT MENTAL HEALTH - INPATIENT				
	OPERATING		HTH	615.00 * 52,895,657 A	615.00 * 52,895,657 A
	INVESTMENT CAPITAL		AGS	3,750,000 C	C

PROGRAM APPROPRIATIONS

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				FISCAL YEAR 2013-2014	FISCAL YEAR 2014-2015
13.	HTH440 - ALCOHOL AND DRUG ABUSE			22.00 *	22.00 *
	OPERATING		HTH	19,005,362 A	18,575,362 A
			HTH	500,000 B	500,000 B
				6.00 *	6.00 *
			HTH	7,915,082 N	7,915,082 N
			HTH	5,947,262 P	5,947,262 P
14.	HTH460 - CHILD AND ADOLESCENT MENTAL HEALTH			161.00 *	161.00 *
	OPERATING		HTH	40,038,386 A	40,038,386 A
				17.00 *	17.00 *
			HTH	14,985,824 B	14,985,824 B
			HTH	2,387,825 N	2,387,825 N
			HTH	2,264,888 U	2,264,888 U
			HTH	2,000,000 P	2,000,000 P
15.	HTH501 - DEVELOPMENTAL DISABILITIES			203.75 *	203.75 *
	OPERATING		HTH	71,614,634 A	70,249,634 A
				3.00 *	3.00 *
			HTH	1,038,992 B	1,038,992 B
16.	HTH495 - BEHAVIORAL HEALTH ADMINISTRATION			57.50 *	57.50 *
	OPERATING		HTH	6,760,523 A	6,760,523 A
			HTH	1,236,863 P	1,236,863 P
17.	HTH610 - ENVIRONMENTAL HEALTH SERVICES			100.00 *	100.00 *
	OPERATING		HTH	5,598,048 A	5,671,968 A
				18.00 *	21.00 *
			HTH	1,640,404 B	1,897,437 B
				2.00 *	2.00 *
			HTH	67,711 N	67,711 N
				1.00 *	1.00 *
			HTH	55,481 U	55,481 U
				4.00 *	4.00 *
			HTH	526,971 P	526,971 P
18.	HTH710 - STATE LABORATORY SERVICES			72.00 *	72.00 *
	OPERATING		HTH	6,810,558 A	6,810,558 A
			HTH	11,129 N	11,129 N
			HTH	486,234 P	486,234 P
19.	HTH720 - HEALTH CARE ASSURANCE			19.60 *	20.60 *
	OPERATING		HTH	1,479,878 A	1,960,984 A
			HTH	406,000 B	406,000 B
			HTH	73,128 N	73,128 N
				17.40 *	17.40 *
			HTH	1,564,720 P	1,564,720 P
20.	HTH906 - STATE HEALTH PLANNING AND DEVELOPMENT AGENCY			6.00 *	6.00 *
	OPERATING		HTH	484,429 A	484,429 A
			HTH	114,000 B	114,000 B
21.	HTH760 - HEALTH STATUS MONITORING			29.50 *	29.50 *

PROGRAM APPROPRIATIONS

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
		OPERATING	HTH	1,410,190 A 1.00 *	1,410,190 A 1.00 *
			HTH	660,155 B 3.00 *	660,155 B 3.00 *
			HTH	234,870 P	234,870 P
22.	HTH905 -	DEVELOPMENTAL DISABILITIES COUNCIL		1.50 *	1.50 *
	OPERATING		HTH	218,048 A 6.50 *	218,048 A 6.50 *
			HTH	478,797 N	478,797 N
23.	HTH907 -	GENERAL ADMINISTRATION		118.50 *	118.50 *
	OPERATING		HTH	9,216,927 A	8,148,927 A
			HTH	1,501,830 P	1,501,830 P
	INVESTMENT CAPITAL		AGS	9,665,000 C	4,097,000 C
			HTH	10,028,000 C	C
24.	HTH908 -	OFFICE OF LANGUAGE ACCESS		3.00 *	3.00 *
	OPERATING		HTH	312,228 A	312,228 A
F. SOCIAL SERVICES					
1.	HMS301 -	CHILD PROTECTIVE SERVICES		216.44 *	216.44 *
	OPERATING		HMS	33,103,294 A	33,157,387 A
			HMS	1,007,587 B 192.06 *	1,007,587 B 192.06 *
			HMS	38,728,313 N	39,118,113 N
			HMS	106,225 P	106,225 P
2.	HMS302 -	GENERAL SUPPORT FOR CHILD CARE		19.57 *	19.57 *
	OPERATING		HMS	1,004,142 A 19.43 *	1,004,142 A 19.43 *
			HMS	10,883,987 N	10,883,987 N
3.	HMS303 -	CHILD PROTECTIVE SERVICES PAYMENTS			
	OPERATING		HMS	37,066,013 A	37,585,218 A
			HMS	20,095,666 N	20,657,766 N
4.	HMS305 -	CASH SUPPORT FOR CHILD CARE			
	OPERATING		HMS	15,011,811 A	15,011,811 A
			HMS	38,530,754 N	38,530,754 N
5.	HMS501 -	IN-COMMUNITY YOUTH PROGRAMS		14.00 *	14.00 *
	OPERATING		HMS	7,657,376 A	7,474,901 A
			HMS	3,706,297 N	3,706,297 N
	INVESTMENT CAPITAL		HMS	435,000 C	C
6.	HMS503 -	HAWAII YOUTH CORRECTIONAL FACILITY (HYCF)		124.00 *	124.00 *
	OPERATING		HMS	10,961,107 A	11,003,239 A
7.	DEF112 -	SERVICES TO VETERANS		28.00 *	28.00 *
	OPERATING		DEF	2,140,167 A	2,065,963 A
	INVESTMENT CAPITAL		DEF	2,300,000 C	C

PROGRAM APPROPRIATIONS

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
8.	HMS601 - ADULT AND COMMUNITY CARE SERVICES				
	OPERATING	HMS	66.84 *	5,774,897 A	5,069,317 A
			8.66 *		
		HMS	3,607,815 N	3,607,815 N	3,607,815 N
		HMS	10,000 R	10,000 R	10,000 R
		HMS	382,003 U	382,003 U	382,003 U
		HMS	1,321,390 P	1,321,390 P	1,321,390 P
9.	HMS202 - AGED, BLIND AND DISABLED PAYMENTS				
	OPERATING	HMS	4,029,480 A	4,029,480 A	4,029,480 A
10.	HMS204 - GENERAL ASSISTANCE PAYMENTS				
	OPERATING	HMS	21,289,056 A	21,289,056 A	21,289,056 A
11.	HMS206 - FEDERAL ASSISTANCE PAYMENTS				
	OPERATING	HMS	5,108,943 N	5,108,943 N	5,108,943 N
12.	HMS211 - CASH SUPPORT FOR FAMILIES - SELF-SUFFICIENCY				
	OPERATING	HMS	22,694,156 A	22,694,156 A	22,694,156 A
		HMS	44,000,000 N	44,000,000 N	44,000,000 N
13.	HMS220 - RENTAL HOUSING SERVICES				
	OPERATING	HMS	4,301,556 A	4,301,556 A	4,301,556 A
			200.00 *		
		HMS	37,488,145 N	37,968,721 N	37,968,721 N
			13.00 *		
		HMS	4,062,417 W	4,062,417 W	4,062,417 W
	INVESTMENT CAPITAL	HMS	45,643,000 C		C
14.	HMS229 - HPHA ADMINISTRATION				
	OPERATING	HMS	72.00 *	34,840,659 N	34,877,410 N
			20.00 *		
		HMS	2,944,010 W	3,240,366 W	3,240,366 W
15.	HMS222 - RENTAL ASSISTANCE SERVICES				
	OPERATING	HMS	1.25 *	1,055,928 A	1,055,928 A
			16.75 *		
		HMS	25,880,614 N	25,880,614 N	25,880,614 N
16.	HMS224 - HOMELESS SERVICES				
	OPERATING	HMS	7.00 *	16,624,102 A	16,015,170 A
		HMS	626,906 N	626,906 N	626,906 N
		HMS	2,366,839 P	2,366,839 P	2,366,839 P
17.	HMS605 - COMMUNITY-BASED RESIDENTIAL SUPPORT				
	OPERATING	HMS	17,810,955 A	17,810,955 A	17,810,955 A
18.	HMS401 - HEALTH CARE PAYMENTS				
	OPERATING	HMS	850,253,440 A	899,194,650 A	899,194,650 A
		HMS	4,392,660 B	3,392,660 B	3,392,660 B
		HMS	1,014,639,320 N	1,056,043,163 N	1,056,043,163 N
		HMS	12,000,000 U	12,000,000 U	12,000,000 U
		HMS	12,956,822 P	13,216,034 P	13,216,034 P
19.	HMS236 - CASE MANAGEMENT FOR SELF-SUFFICIENCY				
	OPERATING	HMS	303.85 *	13,967,075 A	13,873,075 A

PROGRAM APPROPRIATIONS

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
			HMS	239.15 *	239.15 *
			HMS	18,815,365 N	18,815,365 N
				2,763 P	2,763 P
20.	HMS238 -	DISABILITY DETERMINATION			
	OPERATING		HMS	45.00 *	45.00 *
				7,325,287 N	7,325,287 N
21.	ATG500 -	CHILD SUPPORT ENFORCEMENT SERVICES			
	OPERATING		ATG	74.80 *	74.80 *
			ATG	4,175,902 A	4,125,902 A
			ATG	2,231,224 T	2,231,224 T
				145.20 *	145.20 *
			ATG	14,518,035 P	14,518,035 P
22.	HMS237 -	EMPLOYMENT AND TRAINING			
	OPERATING		HMS	469,505 A	469,505 A
			HMS	699,734 N	699,734 N
23.	HHL602 -	PLANNING AND DEVELOPMENT FOR HAWAIIAN HOMESTEADS			
	OPERATING		HHL	9,632,000 A	9,632,000 A
				115.00 *	115.00 *
			HHL	13,030,827 B	13,030,827 B
				4.00 *	4.00 *
			HHL	23,317,601 N	23,317,601 N
				81.00 *	81.00 *
	INVESTMENT CAPITAL		HHL	157,015,612 T	157,015,612 T
			HHL	1,150,000 C	C
			HHL	1,750,000 C	C
			HHL	20,000,000 N	20,000,000 N
24.	HTH904 -	EXECUTIVE OFFICE ON AGING			
	OPERATING		HTH	5.74 *	5.74 *
				8,133,402 A	7,341,402 A
				8.26 *	8.26 *
			HTH	7,010,240 N	7,010,240 N
	INVESTMENT CAPITAL		HTH	592,678 P	592,678 P
				280,000 C	C
25.	HTH520 -	DISABILITY AND COMMUNICATIONS ACCESS BOARD			
	OPERATING		HTH	5.00 *	5.00 *
			HTH	1,230,625 A	1,230,625 A
				10,000 B	10,000 B
				2.00 *	2.00 *
			HTH	253,338 U	253,338 U
26.	HMS902 -	GENERAL SUPPORT FOR HEALTH CARE PAYMENTS			
	OPERATING		HMS	128.75 *	128.75 *
				9,948,606 A	9,141,648 A
				0.56 *	0.56 *
			HMS	1,519,680 B	1,539,357 B
				136.44 *	136.44 *
			HMS	33,393,901 N	26,536,630 N
			HMS	717,484 P	717,484 P
27.	HMS903 -	GENERAL SUPPORT FOR SELF SUFFICIENCY SERVICES			
	OPERATING		HMS	45.40 *	45.40 *
				39,628,739 A	39,289,549 A
				40.60 *	40.60 *
			HMS	63,638,915 N	63,674,089 N
			HMS	460 P	460 P

PROGRAM APPROPRIATIONS

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				FISCAL YEAR 2013-2014	FISCAL YEAR 2014-2015
28.	HMS904 - GENERAL ADMINISTRATION (DHS)				
	OPERATING	HMS	133.90* 7,809,652A 26.10* HMS 1,546,726N HMS 604P HMS 4,000,000C	133.90* 7,832,458A 26.10* 1,546,726N 604P C	
29.	HMS901 - GENERAL SUPPORT FOR SOCIAL SERVICES				
	OPERATING	HMS	14.80* 2,193,528A 4.20* HMS 1,660,539N	14.80* 2,193,528A 4.20* 1,660,539N	

G. FORMAL EDUCATION

1. EDN100 - SCHOOL BASED BUDGETING

OPERATING		EDN	12,561.35* 817,507,508A 7,230,000B 128,498,907N 20,290,000T 3,995,605U 3,389,438W 17,678,689P	12,561.35* 794,398,920A 7,230,000B 128,093,714N 20,290,000T 3,995,605U 3,389,438W 17,034,000P
		EDN		
		EDN		
		EDN		
		EDN		
		EDN		
		EDN		
		EDN		
		EDN		
		EDN		
INVESTMENT CAPITAL		EDN	B 233,470,000C 2,000N	100,000,000B 120,539,000C N

2. EDN150 - SPECIAL EDUCATION AND STUDENT SUPPORT SERVICES

OPERATING		EDN	5,173.62* 321,843,969A 100,000B 2.00* 49,338,081N 4.00* 3,500,000W 92,500P	5,173.62* 321,843,969A 100,000B 2.00* 49,338,081N 4.00* 3,500,000W 92,500P
		EDN		
		EDN		
		EDN		
		EDN		
		EDN		
		EDN		
		EDN		

3. EDN200 - INSTRUCTIONAL SUPPORT

OPERATING		EDN	377.00* 45,120,095A 11.00* 2,321,746B 500,000N 250,000U 187,000P	377.00* 44,132,348A 11.00* 2,321,746B 500,000N 250,000U 187,000P
		EDN		
		EDN		
		EDN		
		EDN		
		EDN		

4. EDN300 - STATE ADMINISTRATION

OPERATING		EDN	446.50* 42,276,161A 30,000P	446.50* 42,276,161A 30,000P
		EDN		

5. EDN400 - SCHOOL SUPPORT

OPERATING		EDN	637.00* 170,665,305A 726.50* 42,676,578B 3.00* 59,659,032N	637.00* 162,218,522A 726.50* 42,676,578B 3.00* 52,452,989N
		EDN		
		EDN		
		EDN		
		EDN		

PROGRAM APPROPRIATIONS

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
				4.00 *	4.00 *
		INVESTMENT CAPITAL	EDN EDN	10,950,000 W 5,200,000 C	10,950,000 W 5,200,000 C
6.	EDN500 -	SCHOOL COMMUNITY SERVICES			
	OPERATING		EDN EDN EDN EDN EDN EDN	29.00 * 2,500,000 A 3,631,000 B 3,266,540 N 4,000,000 T 6,300,000 U 10,995,000 W	29.00 * 2,500,000 A 3,631,000 B 3,266,540 N 4,000,000 T 6,300,000 U 10,995,000 W
7.	EDN600 -	CHARTER SCHOOLS			
	OPERATING		EDN	15.00 * 64,425,165 A	15.00 * 68,050,379 A
8.	EDN700 -	EXECUTIVE OFFICE ON EARLY LEARNING			
	OPERATING		EDN	127,576 A	A
9.	BUF745 -	RETIREMENT BENEFITS - DOE			
	OPERATING		BUF	274,546,967 A	286,023,146 A
10.	BUF765 -	HEALTH PREMIUM PAYMENTS - DOE			
	OPERATING		BUF	231,658,073 A	253,426,037 A
11.	BUF725 -	DEBT SERVICE - DOE			
	OPERATING		BUF	284,657,378 A	286,707,551 A
12.	AGS807 -	SCHOOL R&M, NEIGHBOR ISLAND DISTRICTS			
	OPERATING		AGS AGS	79.00 * 4,425,862 A 1,500,000 U	79.00 * 4,425,862 A 1,500,000 U
13.	EDN407 -	PUBLIC LIBRARIES			
	OPERATING		EDN EDN EDN	547.50 * 29,260,611 A 3,125,000 B 1,365,244 P	547.50 * 28,560,611 A 3,125,000 B 1,365,244 P
	INVESTMENT CAPITAL		AGS	18,750,000 C	2,000,000 C
14.	DEF114 -	HAWAII NATIONAL GUARD YOUTH CHALLENGE ACADEMY			
	OPERATING		DEF DEF	1,571,282 A 5,584,387 N	1,571,282 A 5,584,387 N
	INVESTMENT CAPITAL		DEF	5,900,000 C	C
15.	UOH100 -	UNIVERSITY OF HAWAII, MANOA			
	OPERATING		UOH UOH UOH UOH UOH UOH	3,291.87 * 174,068,561 A 398.25 * 304,573,721 B 78.06 * 6,402,790 N 31.25 * 55,598,433 W	3,291.87 * 174,048,561 A 398.25 * 314,084,695 B 78.06 * 6,873,565 N 31.25 * 55,675,365 W
	INVESTMENT CAPITAL		UOH UOH UOH UOH	4,100,000 B 25,227,000 C 23,500,000 E	B C E
16.	UOH110 -	UNIVERSITY OF HAWAII, JOHN A. BURNS SCHOOL OF MEDICINE			
				200.47 *	200.47 *

PROGRAM APPROPRIATIONS

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				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
		OPERATING	UOH	16,548,940 A	16,548,940 A
			UOH	18,408,949 B	18,408,949 B
			UOH	5,953,547 W	5,953,547 W
17.	UOH210 - UNIVERSITY OF HAWAII, HILO			525.25 *	525.25 *
	OPERATING	UOH		27,977,399 A	27,977,399 A
				95.00 *	95.00 *
		UOH		42,238,111 B	43,775,014 B
		UOH		418,990 N	443,962 N
				8.50 *	8.50 *
	INVESTMENT CAPITAL	UOH		5,749,122 W	5,749,122 W
		UOH		2,000,000 C	C
18.	UOH220 - SMALL BUSINESS DEVELOPMENT				
	OPERATING	UOH		978,941 A	978,941 A
19.	UOH700 - UNIVERSITY OF HAWAII, WEST OAHU			125.50 *	125.50 *
	OPERATING	UOH		8,514,520 A	8,514,520 A
		UOH		33,272,479 B	33,544,958 B
		UOH		26,772 N	33,544 N
		UOH		3,700,000 W	3,700,000 W
	INVESTMENT CAPITAL	UOH		15,300,000 C	C
20.	UOH800 - UNIVERSITY OF HAWAII, COMMUNITY COLLEGES			1,831.00 *	1,831.00 *
	OPERATING	UOH		111,265,299 A	109,265,299 A
				82.00 *	82.00 *
		UOH		93,401,545 B	98,378,379 B
				15.60 *	15.60 *
		UOH		4,411,562 N	4,428,296 N
		UOH		5,042,982 W	5,044,753 W
	INVESTMENT CAPITAL	UOH		53,463,000 C	2,500,000 C
21.	UOH900 - UNIVERSITY OF HAWAII, SYSTEM WIDE SUPPORT			428.00 *	428.00 *
	OPERATING	UOH		46,756,329 A	46,856,329 A
				33.00 *	33.00 *
		UOH		39,299,318 B	39,299,318 B
				4.00 *	4.00 *
		UOH		909,175 N	909,175 N
				15.00 *	15.00 *
		UOH		17,131,574 W	17,131,574 W
	INVESTMENT CAPITAL	UOH		78,004,000 C	29,000,000 C
22.	BUF748 - RETIREMENT BENEFITS - UH				
	OPERATING	BUF		127,028,002 A	138,575,844 A
23.	BUF768 - HEALTH PREMIUM PAYMENTS - UH				
	OPERATING	BUF		82,978,795 A	90,795,204 A
24.	BUF728 - DEBT SERVICE - UH				
	OPERATING	BUF		105,351,314 A	106,110,080 A
H. CULTURE AND RECREATION					
1.	UOH881 - UNIVERSITY OF HAWAII, AQUARIA			13.00 *	13.00 *
	OPERATING	UOH		611,256 A	611,256 A

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
				7.00 *	7.00 *
			UOH	3,117,141 B	3,117,141 B
			UOH	996,499 W	996,499 W
2.	AGS881 - STATE FOUNDATION ON CULTURE AND THE ARTS				
	OPERATING		AGS	1,400,675 A	936,332 A
				16.50 *	16.50 *
			AGS	4,190,291 B	4,224,960 B
				5.00 *	5.00 *
			AGS	1,306,936 N	1,306,936 N
3.	AGS818 - KING KAMEHAMEHA CELEBRATION COMMISSION				
	OPERATING		AGS	57,874 T	57,874 T
4.	LNR802 - HISTORIC PRESERVATION				
	OPERATING			19.00 *	19.00 *
			LNR	1,458,044 A	1,408,044 A
			LNR	77,283 B	59,783 B
			LNR	746,089 N	746,089 N
5.	LNR804 - FOREST AND OUTDOOR RECREATION				
	OPERATING			29.50 *	29.50 *
			LNR	1,251,336 A	1,251,336 A
				6.50 *	6.50 *
			LNR	1,012,912 B	712,912 B
				5.00 *	5.00 *
			LNR	2,207,731 N	2,207,731 N
			LNR	572,088 W	572,088 W
	INVESTMENT CAPITAL		LNR	4,040,000 C	6,915,000 C
			LNR	2,250,000 N	7,500,000 N
6.	LNR805 - RECREATIONAL FISHERIES				
	OPERATING			7.00 *	7.00 *
			LNR	415,524 A	265,524 A
			LNR	76,131 B	76,131 B
			LNR	1,021,746 N	1,021,746 N
			LNR	450,000 P	P
7.	LNR806 - PARKS ADMINISTRATION AND OPERATION				
	OPERATING			71.00 *	71.00 *
			LNR	4,762,155 A	4,752,155 A
				44.00 *	44.00 *
			LNR	6,989,444 B	7,361,885 B
			LNR	1,218,456 P	1,218,456 P
	INVESTMENT CAPITAL		LNR	38,950,000 C	11,800,000 C
8.	LNR801 - OCEAN-BASED RECREATION				
	OPERATING			250,000 A	A
			LNR	105.00 *	105.00 *
			LNR	16,829,958 B	16,851,272 B
			LNR	1,001,411 N	1,001,411 N
	INVESTMENT CAPITAL		LNR	15,960,000 C	6,050,000 C
			LNR	825,000 N	750,000 N
			LNR	563,000 P	863,000 P
9.	AGS889 - SPECTATOR EVENTS AND SHOWS - ALOHA STADIUM				
				38.50 *	38.50 *
	OPERATING		AGS	8,944,121 B	8,944,121 B
	INVESTMENT CAPITAL		AGS	10,000,000 C	10,000,000 C

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR 2013-2014	FISCAL YEAR 2014-2015
I. PUBLIC SAFETY					
1.	PSD402	HALAWA CORRECTIONAL FACILITY			
	OPERATING		PSD	397.00 * 23,574,166 A 28,719 W	397.00 * 23,580,275 A 28,719 W
2.	PSD403	KULANI CORRECTIONAL FACILITY			
	OPERATING		PSD	76.00 * 2,483,229 A	76.00 * 5,181,327 A
3.	PSD404	WAIAWA CORRECTIONAL FACILITY			
	OPERATING		PSD	110.00 * 6,051,634 A 15,000 W	110.00 * 6,058,636 A 15,000 W
4.	PSD405	HAWAII COMMUNITY CORRECTIONAL CENTER			
	OPERATING		PSD	163.00 * 9,494,900 A	163.00 * 9,406,467 A
5.	PSD406	MAUI COMMUNITY CORRECTIONAL CENTER			
	OPERATING		PSD	184.00 * 9,725,912 A 209,721 S	184.00 * 9,709,364 A 209,721 S
6.	PSD407	OAHU COMMUNITY CORRECTIONAL CENTER			
	OPERATING		PSD	490.00 * 28,319,521 A 30,000 W	490.00 * 28,380,124 A 30,000 W
7.	PSD408	KAUAI COMMUNITY CORRECTIONAL CENTER			
	OPERATING		PSD	72.00 * 3,849,546 A	72.00 * 3,971,214 A
8.	PSD409	WOMEN'S COMMUNITY CORRECTIONAL CENTER			
	OPERATING		PSD	131.00 * 6,625,604 A	131.00 * 6,639,815 A
9.	PSD410	INTAKE SERVICE CENTERS			
	OPERATING		PSD	65.00 * 3,477,784 A	65.00 * 3,566,937 A
10.	PSD420	CORRECTIONS PROGRAM SERVICES			
	OPERATING		PSD	170.00 * 19,961,255 A	170.00 * 19,800,555 A
11.	PSD421	HEALTH CARE			
	OPERATING		PSD	189.10 * 21,361,247 A	189.10 * 21,603,307 A
12.	PSD422	HAWAII CORRECTIONAL INDUSTRIES			
	OPERATING		PSD	2.00 * 9,887,705 W	2.00 * 9,887,705 W
13.	PSD808	NON-STATE FACILITIES			
	OPERATING		PSD	9.00 * 54,531,948 A	9.00 * 51,611,529 A
14.	PSD502	NARCOTICS ENFORCEMENT			
	OPERATING		PSD	13.00 * 954,449 A	13.00 * 954,449 A

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
				9.00 *	9.00 *
			PSD	812,737 W	844,748 W
			PSD	206,161 P	206,161 P
15.	PSD503 - SHERIFF				
	OPERATING		PSD	308.00 *	308.00 *
			PSD	14,231,665 A	14,287,541 A
				59.00 *	59.00 *
			PSD	5,076,280 U	5,076,280 U
16.	PSD611 - ADULT PAROLE DETERMINATIONS				
	OPERATING		PSD	6.00 *	6.00 *
			PSD	390,792 A	390,792 A
17.	PSD612 - ADULT PAROLE SUPERVISION AND COUNSELING				
	OPERATING		PSD	62.00 *	62.00 *
			PSD	3,822,532 A	3,863,431 A
18.	PSD613 - CRIME VICTIM COMPENSATION COMMISSION				
	OPERATING		PSD	5.00 *	5.00 *
			PSD	450,000 A	450,000 A
				8.00 *	8.00 *
			PSD	1,892,173 B	1,892,173 B
			PSD	859,315 P	859,315 P
19.	PSD900 - GENERAL ADMINISTRATION				
	OPERATING		PSD	135.00 *	135.00 *
			PSD	13,406,145 A	13,280,713 A
			PSD	667,984 B	667,984 B
			PSD	75,065 T	75,065 T
	INVESTMENT CAPITAL		AGS	16,000,000 C	16,000,000 C
20.	ATG231 - STATE CRIMINAL JUSTICE INFORMATION AND IDENTIFICATION				
	OPERATING		ATG	26.50 *	26.50 *
			ATG	1,630,894 A	1,703,894 A
			ATG	19,471 N	19,471 N
				19.50 *	19.50 *
			ATG	2,064,528 W	2,064,528 W
			ATG	3,464,000 P	P
21.	LNR810 - PREVENTION OF NATURAL DISASTERS				
	OPERATING		LNR	8.50 *	8.50 *
			LNR	2,059,158 B	2,059,158 B
				0.50 *	0.50 *
	INVESTMENT CAPITAL		LNR	370,602 P	370,602 P
			LNR	570,000 C	C
22.	DEF110 - AMELIORATION OF PHYSICAL DISASTERS				
	OPERATING		DEF	114.60 *	114.60 *
			DEF	11,446,807 A	11,463,700 A
				100.65 *	100.65 *
			DEF	33,447,262 N	34,297,942 N
			DEF	464,458 S	464,458 S
			DEF	1,403,930 U	103,930 U
			DEF	59,500,000 P	56,000,000 P
	INVESTMENT CAPITAL		DEF	20,000,000 C	C
			DEF	10,986,000 C	4,400,000 C
			DEF	36,432,000 N	1,001,000 N

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
J. INDIVIDUAL RIGHTS					
1.	CCA102	CABLE TELEVISION			
	OPERATING		CCA	7.00 * 2,391,537 B	7.00 * 2,391,537 B
2.	CCA103	CONSUMER ADVOCATE FOR COMMUNICATION, UTILITIES, AND TRANSPORTATION SERVICES			
	OPERATING		CCA	23.00 * 3,031,508 B	23.00 * 3,031,508 B
3.	CCA104	FINANCIAL SERVICES REGULATION			
	OPERATING		CCA	34.00 * 3,384,920 B	34.00 * 3,384,920 B
			CCA	110,000 T	110,000 T
4.	CCA105	PROFESSIONAL AND VOCATIONAL LICENSING			
	OPERATING		CCA	54.00 * 6,040,488 B	54.00 * 6,040,488 B
			CCA	8.00 * 2,144,311 T	8.00 * 2,104,311 T
5.	BUF901	PUBLIC UTILITIES COMMISSION			
	OPERATING		BUF	62.00 * 11,412,174 B	62.00 * 15,270,174 B
6.	CCA106	INSURANCE REGULATORY SERVICES			
	OPERATING		CCA	85.00 * 14,350,016 B	85.00 * 14,350,016 B
			CCA	200,000 T	200,000 T
			CCA	1,000,000 P	250,000 P
7.	CCA110	OFFICE OF CONSUMER PROTECTION			
	OPERATING		CCA	17.00 * 1,781,593 B	17.00 * 1,784,652 B
			CCA	100,681 T	100,681 T
8.	AGR812	MEASUREMENT STANDARDS			
	OPERATING		AGR	7.00 * 384,525 A	7.00 * 384,525 A
			AGR	4.00 * 420,000 B	4.00 * 420,000 B
9.	CCA111	BUSINESS REGISTRATION AND SECURITIES REGULATION			
	OPERATING		CCA	71.00 * 6,649,240 B	71.00 * 6,649,240 B
10.	CCA112	REGULATED INDUSTRIES COMPLAINTS OFFICE			
	OPERATING		CCA	66.00 * 5,631,030 B	66.00 * 5,631,030 B
11.	CCA191	GENERAL SUPPORT			
	OPERATING		CCA	44.00 * 7,165,511 B	44.00 * 7,011,811 B
12.	LTG105	ENFORCEMENT OF INFORMATION PRACTICES			
	OPERATING		LTG	5.00 * 426,935 A	5.00 * 426,935 A
13.	BUF151	OFFICE OF THE PUBLIC DEFENDER			
	OPERATING		BUF	80.50 * 9,779,693 A	80.50 * 9,779,693 A

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
14.	LNR111 - CONVEYANCES AND RECORDINGS				
	OPERATING		LNR	58.00 * 4,779,966 B	58.00 * 4,529,966 B
15.	HMS888 - COMMISSION ON THE STATUS OF WOMEN				
	OPERATING		HMS	1.00 * 158,547 A	1.00 * 158,547 A
K. GOVERNMENT-WIDE SUPPORT					
1.	GOV100 - OFFICE OF THE GOVERNOR				
	OPERATING		GOV	24.00 * 3,247,921 A	24.00 * 3,342,599 A
	INVESTMENT CAPITAL		GOV	1,086,250 N 1,000 C	125,000 N 1,000 C
2.	LTG100 - OFFICE OF THE LIEUTENANT GOVERNOR				
	OPERATING		LTG	3.00 * 1,268,568 A	3.00 * 918,568 A
3.	BED144 - STATEWIDE PLANNING AND COORDINATION				
	OPERATING		BED	13.00 * 1,146,953 A	13.00 * 1,170,041 A
			BED	5.00 * 2,763,559 N	5.00 * 2,350,000 N
			BED	2,000,000 W	2,000,000 W
4.	BED103 - STATEWIDE LAND USE MANAGEMENT				
	OPERATING		BED	6.00 * 532,483 A	6.00 * 548,695 A
5.	BED130 - ECONOMIC PLANNING AND RESEARCH				
	OPERATING		BED	14.00 * 988,308 A	14.00 * 988,308 A
6.	BUF101 - DEPARTMENTAL ADMINISTRATION AND BUDGET DIVISION				
	OPERATING		BUF	41.25 * 31,241,939 A	41.25 * 16,522,075 A
			BUF	2,047,326 B	2,092,693 B
			BUF	61,539 N 0.75 *	61,539 N 0.75 *
			BUF	42,337 U	42,337 U
			BUF	93,036 W	110,567 W
	INVESTMENT CAPITAL		BUF	83,000,000 C	10,000,000 C
7.	AGS871 - CAMPAIGN SPENDING COMMISSION				
	OPERATING		AGS	5.00 * 1,108,051 T	5.00 * 4,683,051 T
8.	AGS879 - OFFICE OF ELECTIONS				
	OPERATING		AGS	15.50 * 3,053,701 A	15.50 * 2,550,959 A
			AGS	0.50 * 7,473,714 N	0.50 * 7,473,714 N
9.	TAX100 - COMPLIANCE				
	OPERATING		TAX	189.00 * 9,063,269 A	189.00 * 9,143,559 A

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
10.	TAX105	- TAX SERVICES AND PROCESSING			
	OPERATING		TAX	118.00* 6,055,983 A	118.00* 6,123,573 A
11.	TAX107	- SUPPORTING SERVICES - REVENUE COLLECTION			
	OPERATING		TAX	75.00* 8,383,090 A	75.00* 10,837,180 A
			TAX	1,047,875 B	1,047,875 B
	INVESTMENT CAPITAL		TAX	16,001,000 C	16,001,000 C
12.	AGS101	- ACCOUNTING SYSTEM DEVELOPMENT AND MAINTENANCE			
	OPERATING		AGS	6.00* 513,981 A	6.00* 513,981 A
13.	AGS102	- EXPENDITURE EXAMINATION			
	OPERATING		AGS	16.00* 1,098,527 A	16.00* 1,098,527 A
14.	AGS103	- RECORDING AND REPORTING			
	OPERATING		AGS	13.00* 870,848 A	13.00* 823,172 A
15.	AGS104	- INTERNAL POST AUDIT			
	OPERATING		AGS	6.00* 441,975 A	6.00* 441,975 A
16.	BUF115	- FINANCIAL ADMINISTRATION			
	OPERATING		BUF	13.00* 1,872,855 A	13.00* 1,904,155 A
			BUF	9.00* 7,018,984 T	9.00* 7,018,984 T
			BUF	1.00* 70,260 U	1.00* 70,260 U
17.	BUF721	- DEBT SERVICE PAYMENTS - STATE			
	OPERATING		BUF	330,095,983 A	332,473,416 A
18.	ATG100	- LEGAL SERVICES			
	OPERATING		ATG	222.06* 19,575,097 A	222.06* 19,402,053 A
			ATG	22.80* 2,655,226 B	22.80* 2,655,226 B
			ATG	1.20* 4,832,604 N	1.20* 4,832,604 N
			ATG	0.50* 3,990,504 T	0.50* 3,990,504 T
			ATG	53.11* 9,035,961 U	53.11* 9,035,361 U
			ATG	4.45* 3,144,559 W	4.45* 3,144,559 W
			ATG	12.66* 1,802,515 P	12.66* 1,802,515 P
19.	AGS131	- INFORMATION PROCESSING AND COMMUNICATIONS SERVICES			
	OPERATING		AGS	104.00* 13,928,645 A	104.00* 13,928,645 A
			AGS	90,016 B	90,016 B
			AGS	33.00* 3,312,584 U	33.00* 3,312,584 U
	INVESTMENT CAPITAL		AGS	9,250,000 C	6,350,000 C

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M	FISCAL M
				YEAR O	YEAR O
				2013-2014 F	2014-2015 F
20.	AGS130 - INFORMATION MANAGEMENT AND TECHNOLOGY SERVICES				
	OPERATING		AGS	30.00 * 19,543,949 A	30.00 * 15,090,969 A
			AGS	7.00 * 821,027 B	7.00 * 821,027 B
	INVESTMENT CAPITAL		AGS	25,000,000 U	25,000,000 U
			AGS	30,000,000 C	30,000,000 C
21.	AGS111 - ARCHIVES - RECORDS MANAGEMENT				
	OPERATING		AGS	16.00 * 1,130,072 A	16.00 * 867,572 A
			AGS	B	325,920 B
22.	AGS891 - WIRELESS ENHANCED 911 BOARD				
	OPERATING		AGS	9,000,000 B	9,000,000 B
23.	HRD102 - WORK FORCE ATTRACTION, SELECTION, CLASSIFICATION, AND EFFECTIVENESS				
	OPERATING		HRD	85.00 * 13,541,761 A	85.00 * 13,715,387 A
			HRD	700,000 B	700,000 B
			HRD	4,886,281 U	4,886,281 U
24.	HRD191 - SUPPORTING SERVICES - HUMAN RESOURCES DEVELOPMENT				
	OPERATING		HRD	11.00 * 1,444,386 A	11.00 * 1,444,386 A
25.	BUF141 - EMPLOYEES RETIREMENT SYSTEM				
	OPERATING		BUF	102.00 * 11,048,393 X	102.00 * 11,255,963 X
26.	BUF143 - EMPLOYER UNION TRUST FUND				
	OPERATING		BUF	52.00 * 6,415,876 T	52.00 * 6,158,137 T
27.	BUF741 - RETIREMENT BENEFITS PAYMENTS - STATE				
	OPERATING		BUF	264,941,819 A	273,918,079 A
			BUF	2,000,000 U	4,000,000 U
28.	BUF761 - HEALTH PREMIUM PAYMENTS - STATE				
	OPERATING		BUF	308,860,839 A	345,873,835 A
29.	LNR101 - PUBLIC LANDS MANAGEMENT				
	OPERATING		LNR	54.00 * 12,430,985 B	54.00 * 12,464,657 B
			LNR	75,238 N	75,238 N
	INVESTMENT CAPITAL		LNR	150,000 C	500,000 C
			LNR	150,000 R	500,000 R
30.	AGS203 - STATE RISK MANAGEMENT AND INSURANCE ADMINISTRATION				
	OPERATING		AGS	8,687,995 A	9,987,995 A
			AGS	4.00 * 25,285,334 W	4.00 * 25,285,334 W
31.	AGS211 - LAND SURVEY				
	OPERATING		AGS	10.00 * 646,586 A	10.00 * 646,586 A
			AGS	285,000 U	285,000 U
32.	AGS223 - OFFICE LEASING				
				4.00 *	4.00 *

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
		OPERATING	AGS	10,313,034 A	10,313,034 A
			AGS	5,500,000 U	5,500,000 U
33.		AGS221 - PUBLIC WORKS - PLANNING, DESIGN, AND CONSTRUCTION			
				16.00 *	16.00 *
		OPERATING	AGS	1,199,707 A	1,199,707 A
			AGS	4,000,000 W	4,000,000 W
		INVESTMENT CAPITAL	AGS	36,182,000 C	29,017,000 C
34.		AGS231 - CENTRAL SERVICES - CUSTODIAL SERVICES			
				119.00 *	119.00 *
		OPERATING	AGS	17,749,846 A	17,749,846 A
			AGS	58,744 B	58,744 B
			AGS	1,699,084 U	1,699,084 U
35.		AGS232 - CENTRAL SERVICES - GROUNDS MAINTENANCE			
				27.00 *	27.00 *
		OPERATING	AGS	1,652,934 A	1,652,934 A
36.		AGS233 - CENTRAL SERVICES - BUILDING REPAIRS AND ALTERATIONS			
				33.00 *	33.00 *
		OPERATING	AGS	2,899,534 A	2,899,534 A
			AGS	100,000 U	100,000 U
37.		AGS240 - STATE PROCUREMENT			
				22.00 *	22.00 *
		OPERATING	AGS	1,126,903 A	1,126,903 A
38.		AGS244 - SURPLUS PROPERTY MANAGEMENT			
				5.00 *	5.00 *
		OPERATING	AGS	1,798,996 W	1,798,996 W
39.		AGS251 - AUTOMOTIVE MANAGEMENT - MOTOR POOL			
				13.00 *	13.00 *
		OPERATING	AGS	3,377,562 W	2,831,962 W
40.		AGS252 - AUTOMOTIVE MANAGEMENT - PARKING CONTROL			
				27.00 *	27.00 *
		OPERATING	AGS	3,532,901 W	3,591,830 W
41.		AGS901 - GENERAL ADMINISTRATIVE SERVICES			
				34.00 *	34.00 *
		OPERATING	AGS	2,694,264 A	2,694,264 A
				2.00 *	2.00 *
			AGS	146,503 U	146,503 U
42.		SUB201 - CITY AND COUNTY OF HONOLULU			
		INVESTMENT CAPITAL	SUB	3,850,000 C	C
			CCH	800,000 C	C
43.		SUB301 - COUNTY OF HAWAII			
		INVESTMENT CAPITAL	COH	2,500,000 C	C
			COH	2,500,000 S	
44.		SUB501 - COUNTY OF KAUAI			
		INVESTMENT CAPITAL	COK	1,570,000 C	C

PART III. PROGRAM APPROPRIATION PROVISIONS

ECONOMIC DEVELOPMENT

SECTION 4. Provided that of the general fund appropriation for financial assistance for agriculture (AGR101), the sum of \$750,000 for fiscal year 2013-2014 shall be deposited into the agricultural loan revolving fund to be expended for the purposes of the fund.

SECTION 5. Provided that of the general fund appropriation for agribusiness development and research (AGR161), the sum of \$50,601 for fiscal year 2013-2014 and the sum of \$50,601 for fiscal year 2014-2015 shall be deposited into the Hawaii agricultural development revolving fund to be expended for the purposes of the fund.

TRANSPORTATION

SECTION 6. Provided that of the special fund appropriations for the airports division (TRN102-TRN195), the following sums specified for special repair and maintenance projects in fiscal biennium 2013-2015 shall be expended for special repair and maintenance purposes only as follows:

<u>Program I.D.</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
TRN102	\$ 10,000,000	\$ 10,000,000
TRN104	\$ 500,000	\$ 1,100,000
TRN111	\$ 2,100,000	\$ 1,750,000
TRN114	\$ 3,925,000	\$ 3,050,000
TRN116	\$ 375,000	\$ 500,000
TRN118	\$ 325,000	\$ 250,000
TRN131	\$ 2,125,000	\$ 1,250,000
TRN133	\$ 350,000	\$ 0
TRN135	\$ 200,000	\$ 500,000
TRN141	\$ 425,000	\$ 750,000
TRN143	\$ 0	\$ 0
TRN151	\$ 250,000	\$ 600,000
TRN161	\$ 1,250,000	\$ 1,250,000
TRN163	\$ 50,000	\$ 0;

and provided further that any unexpended funds shall lapse to the airport special fund.

SECTION 7. Provided that of the rental motor vehicle customer facility charge special fund appropriation (MOF: B) for airports administration (TRN195), the sum of \$50,000,000 or so much thereof as may be necessary for fiscal biennium 2013-2015 shall be expended for the following purposes:

<u>Purpose</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Interest and principal on the rental motor vehicle customer facility charge revenue bonds	\$20,000,000	\$30,000,000;

provided that any unexpended funds shall lapse to the rental motor vehicle customer facility charge special fund.

SECTION 8. Provided that of the special fund appropriation (MOF: B) for airports administration (TRN195), the sum of \$53,740,506 or so much

thereof as may be necessary for fiscal biennium 2013-2015 shall be expended for the following purposes:

<u>Purpose</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Interest and principal on the Energy Savings Contract bonds	\$26,870,253	\$26,870,253;

provided that any unexpended funds shall lapse to the airport special fund.

SECTION 9. Provided that of the rental motor vehicle customer facility charge special fund appropriation (MOF: B) for airports administration (TRN195), the sum of \$1,800,000 or so much thereof as may be necessary for fiscal biennium 2013-2015 shall be expended for the following purposes:

<u>Purpose</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Interest and principal on Employment - Based Immigration: Fifth Preference (EB-5) loan	\$900,000	\$900,000;

provided that any unexpended funds shall lapse to the rental motor vehicle customer facility charge special fund.

SECTION 10. Provided that of the special fund appropriation for airports administration (TRN195), the sum of \$99,260,174 or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of \$121,445,184 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended for the following purposes:

<u>Purpose</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Interest and principal on revenue bond	\$99,260,174	\$121,445,184;

and provided further that any unexpended funds shall lapse to the airport special fund.

SECTION 11. Provided that of the special fund appropriations for the harbors division (TRN301-TRN363), the following sums specified for special repair and maintenance projects in fiscal biennium 2013-2015 shall be expended for special repair and maintenance purposes only as follows:

<u>Program I.D.</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
TRN301	\$ 7,510,000	\$ 7,810,000
TRN303	\$ 610,000	\$ 610,000
TRN311	\$ 1,125,000	\$ 1,150,000
TRN313	\$ 615,000	\$ 615,000
TRN331	\$ 1,335,000	\$ 1,335,000
TRN333	\$ 30,000	\$ 30,000
TRN341	\$ 465,000	\$ 465,000
TRN351	\$ 250,000	\$ 250,000
TRN361	\$ 1,030,000	\$ 1,030,000
TRN363	\$ 265,000	\$ 265,000;

and provided further that any unexpended funds shall lapse to the harbor special fund.

SECTION 12. Provided that of the special fund appropriation for harbors administration (TRN395), the sum of \$35,103,302 or so much thereof as

may be necessary for fiscal year 2013-2014 and the sum of \$35,151,273 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended for the following purposes:

<u>Purpose</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Interest and principal on general obligation bond	\$3,380,679	\$3,381,053
Interest and principal on revenue bond	\$31,722,623	\$31,770,220;

provided further that any unexpended funds shall lapse to the harbor special fund.

SECTION 13. Provided that of the special fund appropriations for the highways division (TRN501-TRN595), the following sums specified for special repair and maintenance projects in fiscal biennium 2013-2015 shall be expended for special repair and maintenance purposes only as follows:

<u>Program I.D.</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
TRN501	\$34,793,727	\$34,793,727
TRN511	\$15,540,061	\$15,540,061
TRN531	\$19,307,349	\$19,307,349
TRN561	\$11,301,863	\$11,301,863
TRN595	\$500,000;	

and provided further that any unexpended funds shall lapse to the highway special fund.

SECTION 14. Provided that of the special fund appropriation for highways administration (TRN595), the sum of \$57,447,149 or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of \$59,016,793 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended for the following purposes:

<u>Purpose</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Interest and principal on general obligation bond:	\$4,008,477	\$3,762,537
Interest and principal on revenue bond:	\$53,438,672	\$55,254,256;

provided further that any unexpended funds shall lapse to the highway special fund.

HEALTH

SECTION 15. Provided that of the general fund appropriation for general administration (HTH907), the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2013-2014 shall be expended by the department of health to assist in the development of the Hawaii health information exchange; provided further that:

- (1) No funds appropriated for fiscal year 2013-2014 shall be expended for the Hawaii health information exchange contract funded under general administration (HTH907) until the chief information officer finds in writing that the contract and State's duties and responsibilities under the contract are consistent with the office of information management technology's business and information technology/infrastructure resource management transformation plan;

- (2) The department of health shall prepare a detailed report on the expenditure and use of funds and performance outcomes for the funds;
- (3) No additional funds shall be provided until the report is completed and received by the legislature; and
- (4) The department of health shall submit the report to the legislature no later than thirty days prior to the convening of the 2014 regular session.

SOCIAL SERVICES

SECTION 16. Provided that of the general fund appropriation for child protective services (HMS301), the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended to provide neighborhood drop-in center services for Kauai.

SECTION 17. Provided that of the non-recurring, general fund appropriation for planning and development for Hawaiian homesteads (HHL 602), the sum of \$9,632,000 for fiscal year 2013-2014 and the sum of \$9,632,000 for fiscal year 2014-2015 shall be expended only to carry out the functions and duties of the department as specified by and pursuant to the State Constitution; provided further that these funds be expended only for administrative and operating expenses of the department of Hawaiian home lands; provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year for which it was appropriated; provided further that the department of Hawaiian home lands shall prepare a detailed report on the expenditure and use of funds from the general fund appropriation of \$9,632,000 for operating expenses for fiscal year 2013-2014 and fiscal year 2014-2015; and provided further that the department of Hawaiian home lands shall submit the report to the legislature no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

FORMAL EDUCATION

SECTION 18. Provided that of the general fund appropriation for school-based budgeting (EDN100), the sum of \$535,423 or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of \$535,423 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended for the operation of the high core (storefront) alternative learning center.

SECTION 19. Provided that of the general fund appropriation for instructional support (EDN200) the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2013-2014 shall be expended by the department of education for the development of a common core state standards assessment in the Hawaiian language; provided further that the department of education shall submit a report that includes:

- (1) A detailed listing of all uses of the appropriated funds, including a proposed plan for implementation after the assessment is completed;
- (2) Identification and justification for any future costs including but not limited to estimated costs for materials, implementation, and maintenance;
- (3) Any projected challenges and their effects on implementation, and the department of education's plans for score reporting;

and provided further that the department shall submit the report to the legislature no later than thirty days prior to the convening of the 2014 regular session.

SECTION 20. Provided that the public libraries (EDN407) shall prepare a five year strategic plan that shall account for each year of the five year period beginning with calendar year 2014 and shall include:

- (1) A detailed description of program-wide and library-specific goals;
- (2) An analysis of the needs of each library's surrounding community, anticipated changes in the use of the library in response to those changing needs, and an explanation of how the library plans to meet those needs;
- (3) A program-wide and library specific expenditure plan including all means of financing for each of the five years;
- (4) Anticipated increases or decreases in demand for services, including anticipated impact to program expenditures resulting from those changes and detailed forecasts in anticipated clientele numbers and corresponding funding needs by library facility;

and provided further that the five year plan shall be submitted to the legislature no later than June 30, 2014.

SECTION 21. Provided that of the general fund appropriation for the University of Hawaii, Manoa (UOH100), the sum of \$75,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of \$75,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended by the University of Hawaii, college of tropical agriculture and human resources, to implement and operate the 4-H program to educate and support youth in agricultural careers.

SECTION 22. Provided that of the general fund appropriation for the University of Hawaii, system wide support (UOH900), the sum of \$322,242 or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of \$322,242 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended for Na Pua Noeau; provided further that no funds shall be expended unless matched on a dollar-for-dollar basis by the office of Hawaiian affairs; and provided further that, if all or some of the general fund appropriation for Na Pua Noeau is not expended because of a lack of matching funds from the office of Hawaiian affairs, the unexpended or unencumbered portion shall lapse into the general fund at the end of the applicable fiscal year.

SECTION 23. Provided that of the general fund appropriation for the University of Hawaii, systemwide support (UOH900), the sum of \$1,500,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of \$1,500,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended by the University of Hawaii to continue FIRST Pre-Academy STEM (science-technology-engineering-mathematics) initiatives in conjunction with the department of education; and provided further that the funds shall be expended by the office of the vice president of research systemwide.

SECTION 24. Provided that of the general fund appropriation for the University of Hawaii, systemwide support (UOH900), the sum of \$2,086,371 or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of \$2,086,371 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended by the University of Hawaii for the academy for creative me-

dia; provided further that the funds shall be expended by the office of the vice president of research, systemwide.

SECTION 25. Provided that of the general fund appropriation for the University of Hawaii, West Oahu (UOH700), the sum of \$400,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended for the operation and maintenance of, and equipment for, the Ulu'ulu: The Henry Ku'ualoa Giugni Moving Image Archive of Hawaii.

PUBLIC SAFETY

SECTION 26. Provided that of the general fund appropriation for amelioration of physical disasters (DEF110), the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended for relief from major disasters pursuant to section 127-11, Hawaii Revised Statutes; provided further that any funds not expended for this purpose shall lapse to the general fund at the end of the respective fiscal year for which the appropriation was made.

SECTION 27. Provided that the Department of the Attorney General shall not release any additional funding appropriated for county programs related to the Justice Reinvestment Initiative until such funding provided in fiscal year 2013-2014 has been fully expended.

GOVERNMENT-WIDE SUPPORT

SECTION 28. Provided that of the general fund appropriation for the office of the governor (GOV100), the sum of \$10,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of \$10,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be used for the governor's "contingent fund" pursuant to section 37-71(f), Hawaii Revised Statutes; and provided further that such funds may be transferred to other programs and agencies and allotted, with the approval of the governor to meet contingencies as they arise.

SECTION 29. Provided that of the general fund appropriation for departmental administration and budget division (BUF101), the sum of \$15,000,000 or so much thereof as may be necessary for fiscal year 2013-2014 shall be used for the transfer of such funds to other state agencies as may be necessary to mitigate the effects of federal budget sequestration; provided further that the director of finance shall consult with the legislative federal sequestration oversight committee in making recommendations to the governor; provided further that the transfers shall be recommended by the director of finance and approved by the governor; provided further that any unexpended funds shall lapse to the general fund at the end of the fiscal year; provided further that the funds shall not be used for other purposes; provided further that the department shall report to the legislature no later than ten days after a transfer is made to a state agency; and provided further that the department shall submit a summary report of all transfers made pursuant to this section no later than thirty days prior to the convening of the regular session of 2014.

SECTION 30. Provided that of the general fund appropriation for departmental administration and budget division (BUF101), the sum of \$300,000

or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of \$400,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be used for up to 10.00 temporary exempt positions to provide backfill staff support for departments where permanent staffing has been assigned to work on the implementation of the enterprise resource planning project; provided further that the positions and funds may be transferred to the departments requiring temporary staff support with the approval of the governor; provided further that the department shall prepare a report that lists the titles and duties of each of the 10.00 temporary positions, location of their deployment, budgeted salaries, and the role for each position in the overall office of information management and technology project plan; and provided further that the department of budget and finance shall submit this report to the legislature no later than sixty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 31. Provided that of the funds appropriated or authorized from the sources of funding indicated below to the departmental administration and budget division (BUF101), the following sums or so much thereof as may be necessary for fiscal year 2013-2014 and fiscal year 2014-2015 shall be used for the carry-over costs due to the implementation of the 3.2 per cent across the board wage increase for bargaining unit (10) employees directed in the arbitration award for fiscal biennium 2011-2013:

	<u>FY 2014</u>	<u>FY 2015</u>
General funds	\$3,638,912	\$3,638,912
Special funds	\$1,679,808	\$1,679,808
Federal funds	\$ 60,243	\$ 60,243;

and provided further that this appropriation shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this section.

SECTION 32. Provided that of the funds appropriated or authorized from the sources of funding indicated below to the departmental administration and budget division (BUF101), the following sums or so much thereof as may be necessary for fiscal year 2013-2014 and fiscal year 2014-2015 shall be used for the carry-over costs due to the implementation of the 3.2 per cent across the board wage increase for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within collective bargaining unit (10) due to the arbitration award for fiscal biennium 2011-2013:

	<u>FY 2014</u>	<u>FY 2015</u>
General funds	\$72,252	\$72,252
Special funds	\$29,758	\$29,758
Federal funds	\$ 1,296	\$ 1,296
Interdepartmental transfer funds	\$ 7,372	\$ 7,372;

and provided that this appropriation shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this section.

SECTION 33. Provided that of the funds appropriated or authorized from the sources of funding indicated below to the departmental administration and budget division (BUF101) the following sums, or so much thereof as may be necessary for fiscal year 2013-2014 and fiscal year 2014-2015 shall be used for

the costs to implement the State Salary Commission's final recommendations and provided that this appropriation shall be allotted by the director of finance to the appropriate state departments for expenditures in the respective fiscal year for the purposes of this section.

	<u>FY 2014</u>	<u>FY 2015</u>
General funds	\$1,280,137	\$1,418,819
Special funds	\$ 337,760	\$ 383,127
Revolving funds	\$ 93,036	\$ 110,567;

SECTION 34. Provided that of the general fund appropriation for health premium payments (BUF761), the sum of \$100,000,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of \$117,400,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be used to provide payments to pre-fund other post-employment benefits for the Hawaii employer-union health benefits trust fund; and provided further that the funds shall not be expended for any other purpose.

SECTION 35. Provided that of the general fund appropriations for debt service payments (BUF721-BUF728), the following sums specified in fiscal biennium 2013-2015 shall be expended for principal and interest payments on general obligation bonds only as follows:

<u>Program I.D.</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
BUF721	\$330,095,983	\$332,473,416
BUF725	\$284,657,378	\$286,707,551
BUF728	\$105,351,314	\$106,110,080;

provided further that unrequired balances may be transferred only to retirement benefits payments (BUF741-BUF748) and health premium payments (BUF761-BUF768); provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse into the general fund at the end of the respective fiscal year for which the appropriation was made.

SECTION 36. Provided that of the general fund appropriations for retirement benefits payments (BUF741-BUF748), the following sums specified in fiscal biennium 2013-2015 shall be expended for the state employer's share of the employee's retirement pension accumulation only as follows:

<u>Program I.D.</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
BUF741	\$180,625,042	\$189,994,966
BUF745	\$187,772,212	\$197,512,896
BUF748	\$ 88,514,845	\$ 97,485,617;

provided further that unrequired balances may be transferred only to debt service payments (BUF721-BUF728) and health premium payments (BUF761-BUF768); provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the general fund at the end of the respective fiscal year for which the appropriation was made.

SECTION 37. Provided that of the general fund appropriations for retirement benefits payments (BUF741-BUF748), the following sums specified in fiscal biennium 2013-2015 shall be expended for the state employer's share of the social security/Medicare payment for employees only as follows:

<u>Program I.D.</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
BUF741	\$80,316,777	\$81,923,113
BUF745	\$86,774,755	\$88,510,250
BUF748	\$38,513,157	\$41,090,227;

provided further that unrequired balances may be transferred only to debt service payments (BUF721-BUF728) and health premium payments (BUF761-BUF768); provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse to the general fund at the end of the respective fiscal year for which the appropriation was made.

SECTION 38. Provided that of the general fund appropriations for health premium payments (BUF761-BUF768), the following sums specified in fiscal biennium 2013-2015 shall be expended for the state employer's share of health premiums for active employees and retirees only as follows:

<u>Program I.D.</u>	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
BUF761	\$208,860,839	\$228,473,835
BUF765	\$231,658,073	\$253,426,037
BUF768	\$ 82,978,795	\$ 90,795,204;

provided further that unrequired balances may be transferred only to debt service payments (BUF721-BUF728) and retirement benefits payments (BUF741-BUF748); provided further that the funds shall not be expended for any other purpose; and provided further that any unexpended funds shall lapse into the general fund at the end of the respective fiscal year for which the appropriation was made.

PART IV. CAPITAL IMPROVEMENT PROJECTS

SECTION 39. CAPITAL IMPROVEMENT PROJECTS AUTHORIZED. The sums of money appropriated or authorized in part II of this Act for capital improvements shall be expended for the projects listed below. Accounting of the appropriations by the department of accounting and general services shall be based on the projects as such projects are listed in this section. Several related or similar projects may be combined into a single project if such combination is advantageous or convenient for implementation; and provided further that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars.)

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F

A. ECONOMIC DEVELOPMENT

BED105 - CREATIVE INDUSTRIES DIVISION

1.	CID002	HAWAII FILM STUDIO, VARIOUS IMPROVEMENTS, PHASE 2, OAHU			
		DESIGN AND CONSTRUCTION FOR VARIOUS IMPROVEMENTS TO THE HAWAII FILM STUDIO.			
		DESIGN		460	
		CONSTRUCTION		3,000	
		TOTAL FUNDING	AGS	3,460C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)			
				FISCAL M		FISCAL M	
				YEAR O	YEAR O	YEAR O	YEAR O
				2013-2014 F	2014-2015 F		
2.	CID003	CREATIVE MEDIA/FILM STUDIO FACILITY, STATEWIDE					
		PLANS FOR A NEW MULTI-STAGE PRODUCTION AND POST PRODUCTION FACILITY.					
		PLANS		250			
		TOTAL FUNDING	BED	250C			C
BED107 - FOREIGN TRADE ZONE							
3.	FTZ013	FOREIGN TRADE ZONE (FTZ) PIER 2 FACILITY ROOF REPAIRS, OAHU					
		PLANS, DESIGN AND CONSTRUCTION TO REPAIR LEAKING ROOF OF THE FTZ'S PIER 2 FACILITY, INCLUDING RUSTED GUTTER LINES AND DRAINS, BROKEN SKYLIGHT PANELS, PERIMETER EAVES, AND WATERPROOFING THE PARAPET WALL.					
		PLANS		30			
		DESIGN		120			
		CONSTRUCTION		2,050			
		TOTAL FUNDING	BED	2,200C			C
4.		FOREIGN TRADE ZONE IMPORT-EXPORT STEP-UP INCUBATOR, MAUKA RENOVATION, OAHU					
		DESIGN AND CONSTRUCTION FOR RENOVATION OF MAUKA END OF THE FOREIGN TRADE ZONE WAREHOUSE TO PROVIDE 30,000 SQ. FT. OF ADDITIONAL OFFICE SPACE WITH 40 INDIVIDUAL OFFICES, COMMON CONFERENCE ROOM AND OTHER FACILITIES TO SUPPORT IMPORT-EXPORT RELATED SMALL BUSINESSES.					
		DESIGN		100			
		CONSTRUCTION		2,900			
		TOTAL FUNDING	BED	3,000D			D
LNR172 - FORESTRY RESOURCE MANAGEMENT AND DEVELOPMENT							
5.	D01D	DOFAW BASEYARD ENERGY RETROFIT, STATEWIDE					
		PLANS, DESIGN AND CONSTRUCTION FOR PHOTOVOLTAIC SYSTEM INSTALLATION AND ENERGY SAVING ELECTRICAL UPGRADES TO EXISTING FACILITIES.					
		PLANS		25			
		DESIGN		50			
		CONSTRUCTION		205		740	
		TOTAL FUNDING	LNR	280C		740C	

CAPITAL IMPROVEMENT PROJECTS

				APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
AGR141 - AGRICULTURAL RESOURCE MANAGEMENT					
6.	SW0602	STATE IRRIGATION SYSTEM RESERVOIR SAFETY IMPROVEMENTS, STATEWIDE			
		LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR STATEWIDE RESERVOIR SAFETY IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		1	
		DESIGN		1	
		CONSTRUCTION		8,998	
		TOTAL FUNDING	AGR	6,000 C	
			AGR	3,000 N	C N
7.	201104	WAIAHOLE WATER SYSTEMS IMPROVEMENTS, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO WAIAHOLE WATER SYSTEMS.			
		PLANS		100	
		DESIGN		150	1
		CONSTRUCTION			1,749
		TOTAL FUNDING	AGR	250 C	1,750 C
8.	P12004	KUNIA AGRICULTURAL PARK, OAHU			
		DESIGN AND CONSTRUCTION FOR THE KUNIA AGRICULTURAL PARK.			
		DESIGN		1	
		CONSTRUCTION		2,499	
		TOTAL FUNDING	AGR	2,500 C	C
9.	200402	MOLOKAI IRRIGATION SYSTEM IMPROVEMENTS, MOLOKAI			
		PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE MOLOKAI IRRIGATION SYSTEM.			
		PLANS		1	
		DESIGN		199	
		CONSTRUCTION			1,800
		TOTAL FUNDING	AGR	200 C	1,800 C
10.	200603	WAIMANALO IRRIGATION SYSTEM IMPROVEMENTS, OAHU			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE WAIMANALO IRRIGATION SYSTEM.			
		DESIGN		250	
		CONSTRUCTION			1,250
		TOTAL FUNDING	AGR	250 C	1,250 C
11.	HA6002	WAIMEA IRRIGATION SYSTEM IMPROVEMENTS, HAWAII			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE WAIMEA IRRIGATION SYSTEM.			
		DESIGN		300	
		CONSTRUCTION			1,700
		TOTAL FUNDING	AGR	300 C	1,700 C

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
12.	980002	LOWER HAMAKUA DITCH WATERSHED PROJECT, HAWAII			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE LOWER HAMAKUA DITCH SYSTEM AND APPURTENANT WORKS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		2	
		CONSTRUCTION		4,398	
		TOTAL FUNDING	AGR	2,200 C	C
			AGR	2,200 N	N
13.	P97002	UPCOUNTRY MAUI WATERSHED PROJECT, MAUI			
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF A NEW PIPELINE SYSTEM FOR THE UPCOUNTRY MAUI WATERSHED. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		2	2
		CONSTRUCTION		2,998	2,998
		TOTAL FUNDING	AGR	1,500 C	1,500 C
			AGR	1,500 N	1,500 N
14.	201210	WAIANAE AGRICULTURAL PARK MISCELLANEOUS IMPROVEMENTS, OAHU			
		DESIGN AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO THE WAIANAE AGRICULTURAL PARK.			
		DESIGN			60
		CONSTRUCTION			540
		TOTAL FUNDING	AGR	C	600 C
15.		HAAO SPRINGS AND MOUNTAIN HOUSE, HAWAII			
		PLANS, DESIGN, AND CONSTRUCTION FOR THE DEVELOPMENT AND INSTALLATION OF AN IRRIGATION SYSTEM FOR THE AGRICULTURE WATER CO-OP; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		2,498	
		TOTAL FUNDING	AGR	2,500 C	C
16.		KA'U IRRIGATION SYSTEM, HAWAII			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO IRRIGATION SYSTEM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			100
		CONSTRUCTION			2,400
		TOTAL FUNDING	AGR	C	2,500 C

CAPITAL IMPROVEMENT PROJECTS

				APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
17.		KEKAHA SHAFT, NEW CONNECTION PIPELINE, KAUAI			
		DESIGN AND CONSTRUCTION OF A NEW WATER SOURCE AND CONNECTION PIPELINE FOR THE KEKAHA WATER SYSTEM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		1	
		CONSTRUCTION		199	
		TOTAL FUNDING	AGR	200 C	C
18.		UPCOUNTRY MAUI AGRICULTURAL PARK, MAUI			
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE DEVELOPMENT OF A STATE AGRICULTURAL PARK IN UPCOUNTRY MAUI, WITH MATCHING FUNDS FROM THE COUNTY OF MAUI; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		LAND		1,000	
		DESIGN		1,000	
		CONSTRUCTION		6,000	
		TOTAL FUNDING	AGR	5,000 C	C
			AGR	3,000 S	S
AGR161 - AGRIBUSINESS DEVELOPMENT AND RESEARCH					
19.	201401	AAHOAKA RESERVOIR IMPROVEMENTS, KAUAI			
		CONSTRUCTION FOR IMPROVEMENTS TO THE UPPER AND LOWER AAHOAKA RESERVOIRS.			
		CONSTRUCTION		1,000	
		TOTAL FUNDING	AGR	1,000 C	C
20.		AGRICULTURAL LAND, OAHU			
		LAND ACQUISITION OF AGRICULTURAL LANDS ON OAHU: TMKS 7-1-02-04, 7-1-02-23, 7-4-012-016, 6-5-02-05.			
		LAND		12,500	
		TOTAL FUNDING	AGR	12,500 C	C
21.		AGRICULTURAL LAND, OAHU			
		LAND ACQUISITION OF AGRICULTURAL LANDS ON OAHU.			
		LAND		175,000	
		TOTAL FUNDING	AGR	175,000 E	E

CAPITAL IMPROVEMENT PROJECTS

				APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M	FISCAL M
				YEAR O	YEAR O
				2013-2014 F	2014-2015 F
AGR192 - GENERAL ADMINISTRATION FOR AGRICULTURE					
22.	2	DEPARTMENT OF AGRICULTURE, ENERGY EFFICIENCY IMPROVEMENTS, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO DEPARTMENT OF AGRICULTURE FACILITIES STATEWIDE TO PROVIDE FOR ENERGY SAVINGS.			
		PLANS		100	
		DESIGN		400	
		CONSTRUCTION			2,500
		TOTAL FUNDING	AGS	500C	2,500C
23.	981921	MISCELLANEOUS HEALTH, SAFETY, CODE, AND OTHER REQUIREMENTS, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO ADDRESS HEALTH, SAFETY, CODE, AND OTHER REQUIREMENTS, STATEWIDE.			
		DESIGN		100	100
		CONSTRUCTION		400	400
		TOTAL FUNDING	AGS	500C	500C
BED146 - NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY					
24.	2	NELHA SEAWATER SYSTEM UPGRADES, HAWAII			
		DESIGN AND CONSTRUCTION FOR SYSTEM WIDE UPGRADES, ADD ADDITIONAL PIPELINE AND PUMP STATION UPGRADES TO ALLOW FOR TRANSFER OF SURFACE SEAWATER BETWEEN THE NORTH AND SOUTH SEAWATER SYSTEMS.			
		DESIGN		75	
		CONSTRUCTION		2,248	
		TOTAL FUNDING	BED	2,323C	C
25.	1	NELHA FRONTAGE ROAD AND NEW INTERSECTION CONNECTIONS, HAWAII			
		CONSTRUCTION OF A FRONTAGE ROAD AND NEW CONNECTIONS TO THE KAIMINANI DRIVE AND MAKAKO BAY DRIVE INTERSECTIONS ON QUEEN KAAHUMANU HIGHWAY.			
		CONSTRUCTION		9,694	
		TOTAL FUNDING	BED	9,694C	C

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
LNR141 - WATER AND LAND DEVELOPMENT					
26.	J45	ROCKFALL AND FLOOD MITIGATION, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR ROCKFALL AND FLOOD MITIGATION AT VARIOUS LOCATIONS STATEWIDE. THE LEGISLATURE FINDS AND DECLARES THAT THE APPROPRIATION IS IN THE PUBLIC INTEREST AND FOR THE PUBLIC'S HEALTH, SAFETY AND GENERAL WELFARE OF THE STATE.			
		PLANS		1	1
		DESIGN		1	1
		CONSTRUCTION		2,998	2,998
		TOTAL FUNDING	LNR	3,000C	3,000C
27.	J38A	GEOTHERMAL WELL PLUGGING AND ABANDONMENT, HAWAII			
		DESIGN AND CONSTRUCTION TO PLUG AND ABANDON TWO GEOTHERMAL WELLS AND RESTORE WELL SITES.			
		DESIGN		250	
		CONSTRUCTION			2,300
		TOTAL FUNDING	LNR	250C	2,300C
28.	J38B	STATE WATER PROJECTS PLAN UPDATE, STATEWIDE			
		PLANS TO UPDATE THE STATE WATER PROJECTS PLAN, AS MANDATED BY THE STATE WATER CODE, CHAPTER 174C, HRS.			
		PLANS		500	
		TOTAL FUNDING	LNR	500C	C
BED150 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY					
29.	KA010	KEWALO BASIN JETTY RIPRAP WALL REPAIR, KAKAAKO, OAHU			
		DESIGN AND CONSTRUCTION FOR JETTY RIPRAP WALL REPAIR AT THE MOUTH OF KEWALO BASIN HARBOR.			
		DESIGN		300	
		CONSTRUCTION			700
		TOTAL FUNDING	BED	300C	700C
30.	HCD001	HAWAII COMMUNITY DEVELOPMENT AUTHORITY'S COMMUNITY DEVELOPMENT DISTRICTS, OAHU			
		PLANS FOR COSTS RELATED TO WAGES AND FRINGE BENEFITS FOR PERMANENT AND NON-PERMANENT PROJECT-FUNDED STAFF POSITIONS FOR IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY'S COMMUNITY DEVELOPMENT DISTRICTS. FUNDS MAY BE USED TO MATCH FEDERAL AND NON-STATE FUNDS AS MAY BE AVAILABLE.			
		PLANS		1,855	1,855
		TOTAL FUNDING	BED	1,855C	1,855C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F

BED160 - HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

31. HFDC07 WAIAHOLE WATER SYSTEM IMPROVEMENTS, OAHU

DESIGN AND CONSTRUCTION TO IMPROVE THE WAIAHOLE WATER SYSTEM INFRASTRUCTURE TO BOARD OF WATER SUPPLY STANDARDS.

DESIGN	750	
CONSTRUCTION	550	6,500
TOTAL FUNDING BED	1,300C	6,500C

32. HFDC05 DWELLING UNIT REVOLVING FUND INFUSION, STATEWIDE

CONSTRUCTION TO PROVIDE AN INFUSION OF FUNDS TO FINANCE ADDITIONAL AFFORDABLE HOUSING, STATEWIDE.

CONSTRUCTION	7,000	7,000
TOTAL FUNDING BED	7,000C	7,000C

B. EMPLOYMENT

LBR903 - OFFICE OF COMMUNITY SERVICES

1. HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL, HAWAII

PLANS, DESIGN AND CONSTRUCTION FOR EMERGENCY REPAIRS AND HANDICAPPED ACCESS IMPROVEMENTS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.

PLANS	1	
DESIGN	1	
CONSTRUCTION	48	
TOTAL FUNDING LBR	50C	C

2. HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL, HAWAII

PLANS, DESIGN AND CONSTRUCTION FOR NAALEHU OFFICE EMERGENCY REPAIRS AND HANDICAPPED ACCESS IMPROVEMENTS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.

PLANS	1	
DESIGN	1	
CONSTRUCTION	48	
TOTAL FUNDING LBR	50C	C

3. HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL, HAWAII

EQUIPMENT FOR THE PURCHASE OF VEHICLES FOR TRANSPORTATION PROGRAM. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.

EQUIPMENT	170	
TOTAL FUNDING LBR	170C	C

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL YEAR 2013-2014 F	FISCAL YEAR 2014-2015 F
4.		KAHILU THEATRE FOUNDATION, HAWAII			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVEMENT OF EXISTING FACILITIES. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		DESIGN		100	
		CONSTRUCTION		1,398	
		EQUIPMENT		1	
		TOTAL FUNDING	LBR	1,500	C
5.		HAWAII PUBLIC TELEVISION FOUNDATION, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW BUILDING FOR PBS HAWAII. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		1,998	
		TOTAL FUNDING	LBR	2,000	B
6.		THE FILIPINO COMMUNITY CENTER, INC, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A RETRACTABLE ROOF COVERING. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		248	
		TOTAL FUNDING	LBR	250	C
7.		YOUNG WOMEN'S CHRISTIAN ASSOCIATION, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR THE PATSY T. MINK CENTER FOR BUSINESS AND LEADERSHIP. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		100	
		DESIGN		100	
		CONSTRUCTION		300	
		TOTAL FUNDING	LBR	500	C
8.		YOUNG WOMEN'S CHRISTIAN ASSOCIATION, KAUAI			
		PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR EXPANSION AND RENOVATION FOR A NEW WOMEN'S CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		LAND		1	
		DESIGN		1	
		CONSTRUCTION		397	
		TOTAL FUNDING	LBR	400	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
9.		OLA KA'ILIMA ARTS CENTER, LLC, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR THE OLA KA'ILIMA ARTSPACE LOFTS PROJECT. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		100	
		DESIGN		100	
		CONSTRUCTION		150	
		TOTAL FUNDING LBR		350 C	
10.		EAST-WEST CENTER INC., OAHU			
		CONSTRUCTION FOR EAST-WEST CENTER BUILDINGS REHABILITATION. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		1,700	
		TOTAL FUNDING LBR		1,700 C	
11.		EASTER SEALS, MAUI			
		CONSTRUCTION FOR PHASE 2 OF THE MAUI CAMPUS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		950	
		TOTAL FUNDING LBR		950 C	
12.		HUI O'LAKA, KAUAI			
		CONSTRUCTION FOR RENOVATIONS TO CIVILIAN CONSERVATION CORPS CAMP AND KOKEE STATE PARK. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		50	
		TOTAL FUNDING LBR		50 C	
13.		MANOA HERITAGE CENTER, OAHU			
		CONSTRUCTION OF A NEW MANOA HERITAGE CENTER VISITOR HALE AND EDUCATION CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		1,000	
		TOTAL FUNDING LBR		1,000 C	
14.		MAUI ECONOMIC OPPORTUNITY INC., MAUI			
		CONSTRUCTION FOR VARIOUS FACILITIES AT THE MEO INC. TRANSPORTATION CENTER SITE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		500	
		TOTAL FUNDING LBR		500 C	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
15.		NATIONAL KIDNEY FOUNDATION OF HAWAII, INC., OAHU			
		DESIGN AND CONSTRUCTION FOR A PROGRAM DEVELOPMENT CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		DESIGN		150	
		CONSTRUCTION		1,350	
		TOTAL FUNDING LBR		1,500C	C
16.		THE CONGREGATION OF CHRISTIAN BROTHERS INC., OAHU			
		CONSTRUCTION FOR CAMPUS RENOVATIONS AT DAMIEN MEMORIAL SCHOOL. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		1,500	
		TOTAL FUNDING LBR		1,500C	C
17.		BRANTLEY CENTER, INC., HAWAII			
		PLANS, DESIGN AND CONSTRUCTION FOR RENOVATIONS OF EXISTING FACILITIES IN HONOKA'A. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		28	
		TOTAL FUNDING LBR		30C	C
18.		WAIPA FOUNDATION, KAUAI			
		CONSTRUCTION FOR WAIPA KITCHEN, POI MILL, AND HALE IMU. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		200	
		TOTAL FUNDING LBR		200C	C
19.		HALE KIPA, INC., OAHU			
		PLANS, DESIGN AND CONSTRUCTION TO CONSTRUCT THE HALE KIPA SERVICES CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		100	
		DESIGN		100	
		CONSTRUCTION		800	
		TOTAL FUNDING LBR		1,000C	C
20.		JAPANESE CULTURAL CENTER, OAHU			
		CONSTRUCTION FOR HEALTH, SAFETY AND ENERGY IMPROVEMENTS TO THE JAPANESE CULTURAL CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		450	
		TOTAL FUNDING LBR		450C	C

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
C. TRANSPORTATION FACILITIES					
TRN102 - HONOLULU INTERNATIONAL AIRPORT					
1.	A23R	HONOLULU INTERNATIONAL AIRPORT, RUNWAY 8L WIDENING AND LIGHTING IMPROVEMENTS, OAHU			
		CONSTRUCTION FOR RUNWAY 8L WIDENING, LIGHTING AND OTHER RELATED IMPROVEMENTS. (OTHER FUNDS FROM PASSENGER FACILITY CHARGES).			
		CONSTRUCTION		16,080	
		TOTAL FUNDING TRN		16,080 X	X
2.	A41Q	HONOLULU INTERNATIONAL AIRPORT, NEW MAUKA CONCOURSE IMPROVEMENTS, OAHU			
		DESIGN AND CONSTRUCTION FOR A NEW COMMUTER TERMINAL, NEW MAUKA CONCOURSE, AIRCRAFT APRON, TAXIWAYS AND BLAST FENCE NEAR THE INTERISLAND TERMINAL, AND OTHER RELATED IMPROVEMENTS FOR THE AIRPORT MODERNIZATION PROGRAM.			
		DESIGN		1,224	
		CONSTRUCTION		12,218	
		TOTAL FUNDING TRN		13,442 E	E
3.	A11E	HONOLULU INTERNATIONAL AIRPORT, ELLIOTT STREET SUPPORT FACILITIES, OAHU			
		CONSTRUCTION FOR SUPPORT FACILITIES NEAR ELLIOTT STREET INCLUDING MAINTENANCE FACILITIES, CARGO FACILITIES, TAXIWAY G AND L WIDENING AND REALIGNMENT, AND OTHER RELATED IMPROVEMENTS FOR THE AIRPORT MODERNIZATION PROGRAM.			
		CONSTRUCTION		38,000	30,000
		TOTAL FUNDING TRN		38,000 E	30,000 E
4.	A29B	HONOLULU INTERNATIONAL AIRPORT, REPLACE UNDERGROUND CHILLED WATER PIPES, OAHU			
		DESIGN AND CONSTRUCTION FOR REPLACEMENT OF EXISTING UNDERGROUND CHILLED WATER PIPING TO NEW ABOVEGROUND PIPING SERVICING THE OVERSEAS TERMINAL.			
		DESIGN		800	
		CONSTRUCTION			4,500
		TOTAL FUNDING TRN		800 E	4,500 E
5.	A41F	HONOLULU INTERNATIONAL AIRPORT, TICKET LOBBY IMPROVEMENTS, OAHU			
		DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO THE OVERSEAS TERMINAL TICKET LOBBY.			
		DESIGN		2,000	
		CONSTRUCTION			12,000
		TOTAL FUNDING TRN		2,000 E	12,000 E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
6.	A35D	HONOLULU INTERNATIONAL AIRPORT, OVERSEAS TERMINAL SIGNAGE AND SIDEWALK IMPROVEMENTS, OAHU			
		CONSTRUCTION FOR SIGNAGE AND SIDEWALK IMPROVEMENTS AT THE OVERSEAS TERMINAL.			
		CONSTRUCTION		5,385	
		TOTAL FUNDING TRN		5,385E	E
7.	A08B	HONOLULU INTERNATIONAL AIRPORT, CONCESSION IMPROVEMENTS, OAHU			
		DESIGN AND CONSTRUCTION TO EXPAND, RENOVATE AND IMPROVE THE EXISTING CONCESSION SPACE IN THE OVERSEAS TERMINAL CENTRAL AREA, DIAMOND HEAD CONCOURSE AND EWA CONCOURSE.			
		DESIGN		1,500	
		CONSTRUCTION			11,000
		TOTAL FUNDING TRN		1,500E	11,000E
8.	A20C	HONOLULU INTERNATIONAL AIRPORT, WIKI WIKI SHUTTLE STATION IMPROVEMENTS, OAHU			
		CONSTRUCTION FOR IMPROVEMENTS TO THE TWO WIKI WIKI SHUTTLE STATIONS LOCATED ON THE THIRD LEVEL OF THE OVERSEAS TERMINAL. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		10,700	
		TOTAL FUNDING TRN		4,300E	E
			TRN	6,400N	N
9.	A09B	HONOLULU INTERNATIONAL AIRPORT, GATES 30-34 MOVING WALKWAYS, OAHU			
		DESIGN AND CONSTRUCTION FOR MOVING WALKWAYS IN THE STERILE CORRIDOR OF THE EWA CONCOURSE FROM GATES 30-34.			
		DESIGN		850	
		CONSTRUCTION			7,000
		TOTAL FUNDING TRN		850E	7,000E
10.	A18A	HONOLULU INTERNATIONAL AIRPORT, NEW RAMP CONTROL OFFICE, OAHU			
		CONSTRUCTION FOR A NEW RAMP CONTROL OFFICE.			
		CONSTRUCTION		3,000	
		TOTAL FUNDING TRN		3,000E	E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
11.	A10D	HONOLULU INTERNATIONAL AIRPORT, OVERSEAS TERMINAL 2ND LEVEL ROADWAY IMPROVEMENTS, OAHU			
		CONSTRUCTION FOR CONCRETE RECONSTRUCTION, EXPANSION JOINT REPLACEMENT, DRAINAGE AND LIGHTING IMPROVEMENTS AND OTHER RELATED IMPROVEMENTS ON THE SECOND LEVEL ROADWAY FRONTING THE OVERSEAS TERMINAL.			
		CONSTRUCTION		5,000	
		TOTAL FUNDING TRN		5,000 E	E
12.	A11F	HONOLULU INTERNATIONAL AIRPORT, INTERISLAND TERMINAL 3RD LEVEL ROADWAY IMPROVEMENTS, OAHU			
		CONSTRUCTION FOR THE INTERISLAND TERMINAL THIRD LEVEL ROADWAY IMPROVEMENTS AND OTHER RELATED IMPROVEMENTS.			
		CONSTRUCTION		6,000	
		TOTAL FUNDING TRN		6,000 E	E
13.	A35E	HONOLULU INTERNATIONAL AIRPORT, ROADWAY/TERMINAL SIGNAGE IMPROVEMENTS, OAHU			
		CONSTRUCTION FOR ROADWAY AND TERMINAL SIGNAGE IMPROVEMENTS AND OTHER RELATED IMPROVEMENTS.			
		CONSTRUCTION		15,000	
		TOTAL FUNDING TRN		15,000 E	E
14.	A04B	HONOLULU INTERNATIONAL AIRPORT, LAND ACQUISITION OF AIRPORT CENTER BUILDING, OAHU			
		LAND ACQUISITION OF THE AIRPORT CENTER BUILDING PARCEL.			
		LAND		25,000	
		TOTAL FUNDING TRN		25,000 E	E

TRN111 - HILO INTERNATIONAL AIRPORT

15.	B10Y	HILO INTERNATIONAL AIRPORT, NEW ARFF FACILITY, HAWAII			
		CONSTRUCTION FOR A NEW AIRCRAFT RESCUE AND FIRE FIGHTING (ARFF) STATION AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		19,000	
		TOTAL FUNDING TRN		3,300 E	E
		TRN		15,700 N	N

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)			
ITEM NO.	CAPITAL PROJECT NO.	EXPENDING AGENCY	FISCAL YEAR	M O F	FISCAL YEAR	M O F
		TITLE		2013-2014		2014-2015
16.	BO5A	HILO INTERNATIONAL AIRPORT, RUNWAY 3-21 RECONSTRUCTION, HAWAII				
		DESIGN AND CONSTRUCTION FOR THE STRUCTURAL IMPROVEMENTS OF RUNWAY 3-21 INCLUDING PAVING, STRIPING AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.				
		DESIGN		1,300		
		CONSTRUCTION		17,600		
		TOTAL FUNDING	TRN	6,975 E		E
			TRN	11,925 N		N
17.	B11B	HILO INTERNATIONAL AIRPORT, SECURITY ACCESS CONTROL AND CLOSED CIRCUIT TELEVISION SYSTEM, HAWAII				
		CONSTRUCTION FOR A SECURITY ACCESS CONTROL AND CLOSED CIRCUIT TELEVISION SYSTEM FOR THE AIRPORT MODERNIZATION PROGRAM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. OTHER FUNDS FROM PASSENGER FACILITY CHARGES.				
		CONSTRUCTION		5,500		
		TOTAL FUNDING	TRN	10 B		B
			TRN	1,365 E		E
			TRN	4,125 X		X
18.		ELLISON S. ONIZUKA SPACE MUSEUM, HAWAII				
		DESIGN AND CONSTRUCTION FOR VARIOUS IMPROVEMENTS TO THE ELLISON S. ONIZUKA SPACE MUSEUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.				
		DESIGN		100		
		CONSTRUCTION		2,900		
		TOTAL FUNDING	TRN	3,000 C		C
TRN114 - KONA INTERNATIONAL AIRPORT AT KE'AHOLE						
19.	CO5A	KONA INTERNATIONAL AIRPORT, SECURITY ACCESS CONTROL AND CLOSED CIRCUIT TELEVISION SYSTEM, HAWAII				
		CONSTRUCTION FOR A SECURITY ACCESS CONTROL AND CLOSED CIRCUIT TELEVISION SYSTEM FOR THE AIRPORT MODERNIZATION PROGRAM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. OTHER FUNDS FROM PASSENGER FACILITY CHARGES.				
		CONSTRUCTION		5,909		
		TOTAL FUNDING	TRN	10 B		B
			TRN	5,899 X		X

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
20.	C03T	KONA INTERNATIONAL AIRPORT AT KEAHOE, TERMINAL EXPANSION, HAWAII			
		CONSTRUCTION FOR THE FIRST PHASE OF THE TERMINAL EXPANSION PROGRAM. INCLUDES RELOCATION OF TENANT FACILITIES, RENOVATION OF THE TERMINAL FOR A CENTRALIZED CHECKPOINT AND INLINE EXPLOSIVE DETECTION SYSTEM FOR CHECKED BAGGAGE, INFRASTRUCTURE, AND OTHER RELATED IMPROVEMENTS FOR THE NEW DAY WORK PROJECTS.			
		CONSTRUCTION		70,000	
		TOTAL FUNDING TRN		70,000 E	E
21.	C03A	KONA INTERNATIONAL AIRPORT AT KEAHOE, INTERNATIONAL ARRIVALS BUILDING, HAWAII			
		DESIGN AND CONSTRUCTION FOR AN INTERNATIONAL ARRIVALS BUILDING TO MEET CUSTOMS AND SECURITY REQUIREMENTS AND OTHER RELATED IMPROVEMENTS.			
		DESIGN		1,500	
		CONSTRUCTION			36,000
		TOTAL FUNDING TRN		1,500 E	36,000 E
TRN131 - KAHULUI AIRPORT					
22.	DO4U	KAHULUI AIRPORT, LAND ACQUISITION, MAUI			
		LAND ACQUISITION OF PARCELS NEAR THE AIRPORT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. OTHER FUNDS FROM PASSENGER FACILITY CHARGES.			
		LAND		50,000	
		TOTAL FUNDING TRN		7,500 E	E
			TRN	22,500 N	N
			TRN	20,000 X	X
23.		KAHULUI AIRPORT, ACCESS ROAD, MAUI			
		CONSTRUCTION FOR A NEW ACCESS ROAD TO THE AIRPORT FROM HANA HIGHWAY. IMPROVEMENTS INCLUDE SITE WORK, PAVING, ELECTRICAL, DRAINAGE, UTILITIES, AND OTHER RELATED IMPROVEMENTS. (OTHER FUNDS FROM CUSTOMER FACILITY CHARGES.)			
		CONSTRUCTION		10,000	
		TOTAL FUNDING TRN		10,000 X	X

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
TRN195 - AIRPORTS ADMINISTRATION					
24.	F08F	AIRPORTS DIVISION CAPITAL IMPROVEMENT PROGRAM PROJECT STAFF COSTS, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE DEPARTMENT OF TRANSPORTATION'S AIRPORTS DIVISION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENT PROGRAM RELATED POSITIONS. (OTHER FUNDS FROM PASSENGER FACILITY CHARGES)			
		PLANS		250	250
		DESIGN		900	900
		CONSTRUCTION		1,400	1,400
		TOTAL FUNDING	TRN	2,450 B	2,450 B
			TRN	100 X	100 X
25.	F051	AIRFIELD IMPROVEMENTS, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR AIRFIELD IMPROVEMENTS AT STATEWIDE AIRPORTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		1,000	1,000
		CONSTRUCTION		11,000	11,000
		TOTAL FUNDING	TRN	4,500 B	4,500 B
			TRN	7,500 N	7,500 N
26.	F08G	MISCELLANEOUS AIRPORT PROJECTS, STATEWIDE			
		DESIGN AND CONSTRUCTION OF IMPROVEMENTS AT VARIOUS STATE AIRPORTS. IMPROVEMENTS FOR SAFETY AND CERTIFICATION REQUIREMENTS, OPERATIONAL EFFICIENCY, AND PROJECTS REQUIRED FOR AIRPORT RELATED DEVELOPMENT.			
		DESIGN		1,000	1,000
		CONSTRUCTION		2,500	2,500
		TOTAL FUNDING	TRN	3,500 B	3,500 B
27.	F04J	AIRPORT PLANNING STUDY, STATEWIDE			
		PLANS FOR AIRPORT IMPROVEMENTS, ECONOMIC STUDIES, RESEARCH, NOISE MONITORING STUDIES, NOISE COMPATIBILITY STUDIES, AND ADVANCE PLANNING OF FEDERAL AID AND NON-FEDERAL AID PROJECTS.			
		PLANS		1,000	1,000
		TOTAL FUNDING	TRN	1,000 B	1,000 B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
28.	F08O	CONSTRUCTION MANAGEMENT SUPPORT, STATEWIDE CONSTRUCTION FOR CONSTRUCTION MANAGEMENT SUPPORT AT AIRPORT FACILITIES, STATEWIDE. CONSTRUCTION TOTAL FUNDING	TRN	1,000 1,000B	B
29.		PROGRAM MANAGEMENT, STATEWIDE DESIGN FOR THE PROGRAM MANAGEMENT OF THE MODERNIZATION PROGRAM AT STATEWIDE AIRPORTS. DESIGN TOTAL FUNDING	TRN	2,500 2,500E	2,500 2,500E
30.	F05L	RENTAL CAR FACILITY IMPROVEMENTS, STATEWIDE CONSTRUCTION TO PROVIDE CONSOLIDATED CAR RENTAL FACILITY FOR THE RENTAL CAR AGENCIES AND OTHER RELATED IMPROVEMENTS FOR THE AIRPORT NEW DAY WORKS PROGRAM. CONSTRUCTION TOTAL FUNDING	TRN	80,000 80,000E	E
TRN301 - HONOLULU HARBOR					
31.	J42	NDWP-KAPALAMA MILITARY RESERVATION IMPROVEMENTS, HONOLULU HARBOR, OAHU PLANS, DESIGN AND CONSTRUCTION FOR THE DEVELOPMENT OF A NEW CONTAINER TERMINAL FACILITY AND OTHER RELATED IMPROVEMENTS. THIS IS A NEW DAY WORK PROJECT. PLANS DESIGN CONSTRUCTION TOTAL FUNDING	TRN	500 1,500 248,000 250,000E	E
TRN303 - KALAELOA BARBERS POINT HARBOR					
32.	J44	FUEL PIER FACILITY IMPROVEMENTS, KALAELOA BARBERS POINT HARBOR, OAHU PLANS AND DESIGN FOR A NEW FUEL PIER FACILITY AND OTHER RELATED IMPROVEMENTS. PLANS DESIGN TOTAL FUNDING	TRN	1,000 2,000 1,000E	2,000 2,000E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
33.	J10	KALAELOA-BARBERS POINT HARBOR MODIFICATIONS, OAHU			
		PLANS AND DESIGN TO MODIFY THE TURNING BASIN, ENTRANCE CHANNEL, AND OTHER PHYSICAL FEATURES TO IMPROVE NAVIGATIONAL SAFETY AND OPERATIONAL EFFICIENCIES AT KALAELOA BARBERS POINT HARBOR, OAHU.			
		PLANS		100	
		DESIGN		150	150
		TOTAL FUNDING	TRN	250 B	150 B

TRN311 - HILO HARBOR

34.	L01	HILO HARBOR MODIFICATIONS, HAWAII			
		PLANS TO MODIFY THE TURNING BASIN, ENTRANCE CHANNEL, AND OTHER PHYSICAL FEATURES TO IMPROVE NAVIGATIONAL SAFETY AND OPERATIONAL EFFICIENCIES AT HILO HARBOR, HAWAII.			
		PLANS		925	75
		TOTAL FUNDING	TRN	925 B	75 B

TRN331 - KAHULUI HARBOR

35.	M22	KAHULUI HARBOR IMPROVEMENTS, MAUI			
		PLANS, DESIGN, AND CONSTRUCTION OF CAPITAL IMPROVEMENTS THAT WILL PROVIDE FOR SAFER AND MORE EFFICIENT USE OF OPERATIONAL AREAS AT KAHULUI HARBOR, MAUI.			
		PLANS		250	
		DESIGN		750	
		CONSTRUCTION		4,000	1,000
		TOTAL FUNDING	TRN	5,000 E	1,000 E

TRN395 - HARBORS ADMINISTRATION

36.	I21	NDWP HARBORS DIVISION CAPITAL IMPROVEMENT PROGRAM STAFF COSTS, STATEWIDE			
		PLANS FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT HARBOR MODERNIZATION PLAN PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF NEW DAY WORK PROJECTS CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE DEPARTMENT OF TRANSPORTATION'S HARBORS DIVISION. PROJECTS MAY ALSO INCLUDE FUNDS FOR NON PERMANENT CAPITAL IMPROVEMENT PROGRAM RELATED POSITIONS.			
		PLANS		1,735	1,735
		TOTAL FUNDING	TRN	1,735 E	1,735 E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
37.	I07	ENVIRONMENTAL REMEDIATION OF COMMERCIAL HARBOR FACILITIES, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR ASSESSMENT, MITIGATION, AND/OR REMEDIATION OF ENVIRONMENTAL CONDITIONS AT COMMERCIAL HARBOR FACILITIES, STATEWIDE.			
		PLANS		200	200
		DESIGN		450	450
		CONSTRUCTION		2,350	2,350
		TOTAL FUNDING TRN		3,000B	3,000B
38.	I20	NDWP CONSTRUCTION MANAGEMENT SUPPORT, STATEWIDE			
		CONSTRUCTION FOR CONSULTANT SERVICES DURING CONSTRUCTION OF NEW DAY WORK PROJECTS AT COMMERCIAL HARBOR FACILITIES, STATEWIDE.			
		CONSTRUCTION		5,000	5,000
		TOTAL FUNDING TRN		5,000E	5,000E
39.	I24	COMMERCIAL HARBOR FACILITY IMPROVEMENTS, STATEWIDE			
		PLANS, DESIGN, AND CONSTRUCTION OF SHORE-SIDE AND WATER IMPROVEMENTS FOR COMMERCIAL HARBOR FACILITIES, STATEWIDE.			
		PLANS		250	250
		DESIGN		500	500
		CONSTRUCTION		4,250	4,250
		TOTAL FUNDING TRN		5,000B	5,000B
40.	I01	HARBOR PLANNING, STATEWIDE			
		PLANS FOR CONTINUING HARBOR STUDIES, RESEARCH, AND ADVANCE PLANNING OF HARBOR AND TERMINAL FACILITIES ON ALL ISLANDS.			
		PLANS		500	500
		TOTAL FUNDING TRN		500B	500B
41.	I13	CONSTRUCTION MANAGEMENT SUPPORT, STATEWIDE			
		CONSTRUCTION FOR CONSULTANT SERVICES FOR CONSTRUCTION PROJECTS AT HARBOR FACILITIES STATEWIDE.			
		CONSTRUCTION		1,000	1,000
		TOTAL FUNDING TRN		1,000B	1,000B
42.	I06	ARCHITECTURAL AND ENGINEERING SUPPORT, STATEWIDE			
		PLANS AND DESIGN FOR CONSULTANT SERVICES FOR DEVELOPMENT OF STUDIES AND COMMERCIAL HARBOR FACILITIES, STATEWIDE.			
		PLANS		100	100
		DESIGN		300	300
		TOTAL FUNDING TRN		400B	400B

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO.	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
43.	I15	SECURITY IMPROVEMENTS AT COMMERCIAL HARBORS, STATEWIDE		
	PLANS, DESIGN AND CONSTRUCTION FOR SECURITY SYSTEM IMPROVEMENTS AT COMMERCIAL HARBOR FACILITIES, STATEWIDE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS	300	300
		DESIGN	850	850
		CONSTRUCTION	1,350	1,350
		TOTAL FUNDING TRN	500B	500B
		TRN	2,000P	2,000P

TRN333 - HANA HARBOR

44. M21 NDWP HANA HARBOR IMPROVEMENTS, MAUI

PLANS FOR ENVIRONMENTAL REQUIREMENTS FOR HANA HARBOR IMPROVEMENTS, MAUI.

PLANS		500	
TOTAL FUNDING	TRN	500E	E

45. HANA HARBOR IMPROVEMENTS, MAUI

PLANS, DESIGN, AND CONSTRUCTION FOR CAPITAL IMPROVEMENTS THAT WILL DEVELOP INFRASTRUCTURE AND EXPAND OPERATIONAL AREAS AT HANA HARBOR, MAUI.

PLANS		500	
DESIGN		1,000	
CONSTRUCTION		18,500	
TOTAL FUNDING	TRN	20,000E	E

TRN501 - OAHU HIGHWAYS

46. S332 EROSION CONTROL PROGRAM FOR STATE HIGHWAYS AND FACILITIES, OAHU

CONSTRUCTION FOR PERMANENT EROSION CONTROL MITIGATION MEASURES ON STATE HIGHWAYS AND FACILITIES ON OAHU.

CONSTRUCTION		2,000	
TOTAL FUNDING	TRN	2,000E	E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
47.	S344	MISCELLANEOUS PERMANENT BEST MANAGEMENT PRACTICES, OAHU LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR PERMANENT BEST MANAGEMENT PRACTICE IMPROVEMENTS TO EXISTING HIGHWAY FACILITIES INCLUDING INSTALLATION OF STRUCTURAL AND NATURAL BEST MANAGEMENT PRACTICES AT VARIOUS LOCATIONS ON OAHU.			
		LAND		200	
		DESIGN		750	
		CONSTRUCTION		1,610	3,250
		TOTAL FUNDING	TRN	2,560E	3,250E
48.	S246	INTERSTATE ROUTE H-1, WESTBOUND AFTERNOON (PM) CONTRAFLOW, OAHU CONSTRUCTION FOR A PM CONTRAFLOW LANE ON INTERSTATE ROUTE H-1 FROM THE VICINITY OF RADFORD DRIVE TO THE VICINITY OF WAIKELE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		15,000	
		TOTAL FUNDING	TRN	1,500E	E
			TRN	13,500N	N
49.	R030	INTERSTATE ROUTE H-3, FINISH WORK AND MITIGATION, JUNCTION AT H-1 TO KMCAS, OAHU DESIGN AND CONSTRUCTION FOR A DIVIDED HIGHWAY FROM JUNCTION H-1 TO KANEOHE MARINE CORPS AIR STATION, OAHU. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		75	
		CONSTRUCTION		30	5,000
		TOTAL FUNDING	TRN	15E	1,000E
			TRN	60N	4,000N
			TRN	30R	R
50.	S266	GUARDRAIL AND SHOULDER IMPROVEMENTS, VARIOUS LOCATIONS, OAHU DESIGN AND CONSTRUCTION FOR INSTALLING AND/OR UPGRADING THE EXISTING GUARDRAILS, END TERMINALS, TRANSITIONS, BRIDGE RAILING, BRIDGE ENDPOSTS AND CRASH ATTENUATORS, RECONSTRUCTING AND PAVING OF SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN			250
		CONSTRUCTION			2,680
		TOTAL FUNDING	TRN	E	586E
			TRN	N	2,344N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
51.	S352	KAMEHAMEHA HWY, KARSTEN THOT BRIDGE, REALIGN, AND/OR REPLACEMENT/REHABILITATION, OAHU			
		DESIGN FOR REPLACEMENT OR REHABILITATION OF THE NORTH FORK KAUKONAHUA STREAM BRIDGE (KARSTEN THOT BRIDGE), AND/OR CONSTRUCTION OF A NEW BRIDGE ON A NEW ROADWAY ALIGNMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		2,001	
		TOTAL FUNDING	TRN	2,000E	E
			TRN	1N	N
52.	S221	KALANIANA'OLE HIGHWAY, INOA'OLE STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, OAHU			
		CONSTRUCTION FOR THE REHABILITATION AND/OR REPLACEMENT OF THE INOA'OLE STREAM BRIDGE WITH A LARGER BRIDGE, INCLUDING IMPROVEMENTS TO THE ROADWAY APPROACHES, DETOUR ROAD, AND UTILITY RELOCATIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		1,095	
		TOTAL FUNDING	TRN	219E	E
			TRN	876N	N
53.	S306	KAMEHAMEHA HIGHWAY, SOUTH KAHANA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, OAHU			
		CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF SOUTH KAHANA STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			16,500
		TOTAL FUNDING	TRN	E	3,300E
			TRN	N	13,200N
54.	S315	KAMEHAMEHA HIGHWAY, REHABILITATION AND/OR REPLACEMENT OF LAIELOA STREAM BRIDGE, OAHU			
		CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF A CONCRETE SLAB BRIDGE ON KAMEHAMEHA HIGHWAY IN THE VICINITY OF LAIE TO INCLUDE BRIDGE RAILINGS, WALKWAYS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		691	
		TOTAL FUNDING	TRN	138E	E
			TRN	553N	N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
55.	S317	KAMEHAMEHA HIGHWAY, REHABILITATION AND/OR REPLACEMENT OF WAIPILOPILO STREAM BRIDGE, OAHU			
		CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF A CONCRETE TEE-BRIDGE ON KAMEHAMEHA HIGHWAY IN THE VICINITY OF HAUULA TO INCLUDE BRIDGE RAILINGS, WALKWAYS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			7,600
		TOTAL FUNDING	TRN	E	1,520 E
			TRN	N	6,080 N
56.	S328	KAMEHAMEHA HIGHWAY, REHABILITATION AND/OR REPLACEMENT OF MAKAU A STREAM BRIDGE, OAHU			
		CONSTRUCTION FOR THE REHABILITATION AND/OR REPLACEMENT OF MAKAU A STREAM BRIDGE TO INCLUDE BRIDGE RAILINGS, SHOULDERS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			5,088
		TOTAL FUNDING	TRN	E	1,018 E
			TRN	N	4,070 N
57.	S329	KAMEHAMEHA HIGHWAY, REHABILITATION AND/OR REPLACEMENT OF WAIKANE STREAM BRIDGE, OAHU			
		LAND ACQUISITION AND CONSTRUCTION FOR THE REHABILITATION AND/OR REPLACEMENT OF WAIKANE STREAM BRIDGE TO INCLUDE BRIDGE RAILINGS, SHOULDERS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		162	
		CONSTRUCTION			8,570
		TOTAL FUNDING	TRN	32 E	1,714 E
			TRN	130 N	6,856 N
58.	S348	FARRINGTON HIGHWAY, ULEHAWA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, OAHU			
		LAND ACQUISITION FOR THE REHABILITATION AND/OR REPLACEMENT OF ULEHAWA STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		251	
		TOTAL FUNDING	TRN	50 E	E
			TRN	201 N	N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
59.	S351	CULVERT ASSESSMENT AND REMEDIATION, OAHU			
		DESIGN AND CONSTRUCTION TO ASSESS CULVERTS AND REPAIR AND/OR REPLACE CULVERTS REQUIRING REMEDIATION.			
		DESIGN		1,000	1,000
		CONSTRUCTION		1,500	1,500
		TOTAL FUNDING TRN		2,500 E	2,500 E
60.	S354	KAMEHAMEHA HWY, KIPAPA STREAM (ROOSEVELT) BRIDGE REHABILITATION AND/OR REPLACEMENT, OAHU			
		DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF KIPAPA STREAM (ROOSEVELT) BRIDGE KAMEHAMEHA HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		1,000	
		TOTAL FUNDING TRN		200 E	E
				800 N	N
61.	S318	HIGHWAY LIGHTING REPLACEMENT AT VARIOUS LOCATIONS, OAHU			
		DESIGN AND CONSTRUCTION FOR REPLACING AND/OR UPGRADING THE EXISTING HIGHWAY LIGHTING SYSTEM ON STATE HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		100	30
		CONSTRUCTION		2,013	1,000
		TOTAL FUNDING TRN		2,112 E	1,030 E
				1 N	N
62.	S270	TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAYS FACILITIES, OAHU			
		PLANS, DESIGN, AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATION INCLUDING ELIMINATING CONSTRUCTIONS, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, CONSTRUCTING TURNING LANES, ACCELERATION AND/OR DECELERATION LANES, AND OTHER IMPROVEMENTS FOR MORE EFFICIENT TRAFFIC FLOW.			
		PLANS		200	
		DESIGN			200
		CONSTRUCTION		1,850	650
		TOTAL FUNDING TRN		2,050 E	850 E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
63.	S342	INTERSTATE ROUTE H-1, KUNIA INTERCHANGE IMPROVEMENTS, OAHU			
		PLANS FOR IMPROVEMENTS TO THE KUNIA INTERCHANGE AND APPROACHES.			
		PLANS		780	
		TOTAL FUNDING	TRN	780 E	E
64.	S353	MOTOR VEHICLE SAFETY OFFICE TESTING FACILITY, OAHU			
		CONSTRUCTION FOR COMMERCIAL DRIVER'S LICENSE (CDL) AND MOTORCYCLE LICENSE TESTING FACILITY.			
		CONSTRUCTION		2,425	
		TOTAL FUNDING	TRN	2,425 E	E
65.	S074	OAHU BIKEWAYS, OAHU			
		LAND ACQUISITION FOR A MULTI-USE PATH FROM THE VICINITY OF WAIPIO POINT ACCESS ROAD TO LUALUALEI NAVAL ROAD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		100	2,732
		TOTAL FUNDING	TRN	20 E	546 E
			TRN	80 N	2,186 N
66.	R053	KAMEHAMEHA HIGHWAY, HELEMANO-WAIALUA JUNCTION TO HALEIWA BEACH PARK, OAHU			
		PLANS FOR ENHANCED WETLANDS IN THE VICINITY OF UKOA POND. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		825	
		TOTAL FUNDING	TRN	165 E	E
			TRN	660 N	N
67.	S334	VINEYARD BOULEVARD IMPROVEMENTS AT LUSITANA ST., VICINITY OF QUEEN'S MEDICAL CENTER, OAHU			
		CONSTRUCTION OF A RIGHT TURN LANE FROM LUSITANA STREET ONTO VINEYARD BOULEVARD TO PROVIDE EASTBOUND FREEWAY ACCESS FROM THE QUEEN'S MEDICAL CENTER. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		1,390	
		TOTAL FUNDING	TRN	1 N	N
			TRN	1,389 R	R

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
68.	SP0905	KUALAKAI PARKWAY EXTENSION. KAPOLEI PARKWAY TO ROOSEVELT AVENUE, OAHU			
		CONSTRUCTION FOR AN APPROXIMATE 1/2 MILE EXTENSION BETWEEN KAPOLEI PARKWAY AND ROOSEVELT AVENUE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		15,001	
		TOTAL FUNDING	TRN	15,000E	E
			TRN	1N	N
69.		KAHEKILI AND KAMEHAMEHA HIGHWAY MULTI-USE PATHWAYS, OAHU			
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR MULTI-USE PATHWAYS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS			1
		LAND			1
		DESIGN			1
		CONSTRUCTION			1,547
		TOTAL FUNDING	TRN	E	1,550E
70.		KALANIANAOLE HIGHWAY BEAUTIFICATION, OAHU			
		PLANS AND DESIGN FOR HIGHWAY BEAUTIFICATION ALONG KALANIANAOLE HIGHWAY FROM KANAPUU DRIVE TO OLD KALANIANAOLE ROAD.			
		PLANS		10	
		DESIGN		190	
		TOTAL FUNDING	TRN	200E	E
71.		KALANIANAOLE HIGHWAY, WAILUPE DRAINAGE, OAHU			
		DESIGN AND CONSTRUCTION OF STORM DRAIN IMPROVEMENTS IN WAILUPE ALONG KALANIANAOLE HIGHWAY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		50	
		CONSTRUCTION		1,300	
		TOTAL FUNDING	TRN	1,350E	E
72.		KUNIA ROAD, OAHU			
		PLANS, DESIGN, AND CONSTRUCTION TO EXTEND THIRD LANE OVER FARRINGTON HIGHWAY TO THE H-1 FREEWAY SOUTHBOUND TO THE VICINITY OF LAULAUNUI STREET; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		10	
		DESIGN		90	
		CONSTRUCTION		2,900	
		TOTAL FUNDING	TRN	3,000E	E

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
73.		NAKINI STREET AND KALANIANAOLE HIGHWAY, OAHU			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO CROSSWALK AT INTERSECTION OF NAKINI STREET AND KALANIANAOLE HIGHWAY.			
		DESIGN		10	
		CONSTRUCTION		90	
		TOTAL FUNDING	TRN	100 E	E
74.		FORT WEAVER ROAD, OAHU			
		PLANS, DESIGN, AND CONSTRUCTION FOR DRAINAGE AT THE SOUTH END OF EWA BEACH ROAD.			
		PLANS		100	
		DESIGN		500	
		CONSTRUCTION		2,400	
		TOTAL FUNDING	TRN	3,000 E	E
75.		FORT WEAVER ROAD, OAHU			
		DESIGN AND CONSTRUCTION TO ADD A THIRD LANE ON FORT WEAVER ROAD FROM THE CROSS SECTION OF GEIGER ROAD TO KEONEULA PARKWAY IN BOTH DIRECTIONS.			
		DESIGN		3,000	
		CONSTRUCTION		33,000	
		TOTAL FUNDING	TRN	36,000 E	E
76.		KAHEKILI HIGHWAY, OAHU			
		PLANS AND DESIGN FOR ROAD WIDENING IMPROVEMENTS TO KAHEKILI HIGHWAY FROM HEEIA STREET TO THE INTERSECTION OF KAMEHAMEHA AND KAHEKILI HIGHWAY.			
		PLANS		500	
		DESIGN		1,000	
		TOTAL FUNDING	TRN	1,500 E	E
77.		KAMEHAMEHA HIGHWAY, LUMIAUAU STREET TO LANIKUHANA AVE, OAHU			
		CONSTRUCTION AND EQUIPMENT FOR RESURFACING AND INSTALLATION OF LIGHTING.			
		CONSTRUCTION		3,000	
		EQUIPMENT		1,000	
		TOTAL FUNDING	TRN	4,000 E	E
78.		H2 FREEWAY, KA UKA BLVD TO MEHEULA PARKWAY, OAHU			
		CONSTRUCTION FOR REPAVEMENT OF ONRAMPS AND OFFRAMPS.			
		CONSTRUCTION		1,500	
		TOTAL FUNDING	TRN	1,500 E	E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
79.		H1 FREEWAY, WAIKELE , OAHU			
		CONSTRUCTION FOR REPAVEMENT OF ONRAMPS AND OFFRAMPS.			
		CONSTRUCTION		1,500	
		TOTAL FUNDING	TRN	1,500E	E
TRN511 - HAWAII HIGHWAYS					
80.	T143	MAMALAHOA HIGHWAY, DRAINAGE IMPROVEMENTS, VICINITY OF PUUWAAWAA RANCH ROAD, HAWAII			
		CONSTRUCTION FOR DRAINAGE IMPROVEMENTS FOR MAMALAHOA HIGHWAY IN THE VICINITY OF PUUWAAWAA RANCH ROAD THAT INCLUDES: RETAINING WALLS, ROAD REALIGNMENT AND/OR WIDENING, DRAINAGE STRUCTURES, RELOCATING UTILITIES, LAND ACQUISITION, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			6,000
		TOTAL FUNDING	TRN	E	1,200E
			TRN	N	4,800N
81.	T150	MAMALAHOA HWY, GUARDRAIL AND SHOULDER IMPROVEMENTS AND REALIGNMENT, NAALEHU TO HONUPO, HAWAII			
		LAND ACQUISITION AND DESIGN FOR REPLACEMENT OF GUARDRAIL, SHOULDER IMPROVEMENTS, AND/OR REALIGNMENT OF MAMALAHOA HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		300	
		DESIGN		600	
		TOTAL FUNDING	TRN	180E	E
			TRN	720N	N
82.	T125	AKONI PULE HIGHWAY, REALIGNMENT AND WIDENING AT AAMAKAO GULCH, HAWAII			
		CONSTRUCTION FOR REALIGNMENT AND WIDENING OF AKONI PULE HIGHWAY ON THE POLOLU VALLEY SIDE OF AAMAKAO GULCH, INCLUDING INSTALLING GUARDRAILS AND SIGNS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		7,570	
		TOTAL FUNDING	TRN	1,514E	E
			TRN	6,056N	N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
83.	T151	HAWAII BELT ROAD, DRAINAGE IMPROVEMENTS AT PAPAALOA, M.P. 24.47, HAWAII CONSTRUCTION FOR DRAINAGE IMPROVEMENTS IN THE VICINITY OF M.P. 24.47 ON HAWAII BELT ROAD. CONSTRUCTION TOTAL FUNDING	TRN	2,500 2,500 E	E
84.	T152	MAMALAHOA HIGHWAY, HILEA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, HAWAII DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF HILEA STREAM BRIDGE ALONG MAMALAHOA HIGHWAY (ROUTE 11). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. DESIGN TOTAL FUNDING	TRN TRN	E N	810 162 E 648 N
85.	T110	HAWAII BELT ROAD ROCKFALL PROTECTION AT MAULUA, LAUPAHOEHOE, AND KAAWALLI, HAWAII DESIGN FOR SLOPE PROTECTION ALONG ROUTE 19, HAWAII BELT ROAD IN THE VICINITY OF MAULUA GULCH, LAUPAHOEHOE GULCH, AND KAAWALLI GULCH. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. DESIGN TOTAL FUNDING	TRN TRN	1,505 301 E 1,204 N	E N
86.	T118	TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES, HAWAII DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATION, INCLUDING ELIMINATING CONSTRUCTIONS, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, CONSTRUCTING TURNING LANES, ACCELERATION AND/OR DECELERATION LANES, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. DESIGN CONSTRUCTION TOTAL FUNDING	TRN TRN	100 1,115 1,111 E 104 N	900 900 E N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
87.	T108	SADDLE ROAD EXTENSION, HAWAII			
		DESIGN FOR A NEW ROADWAY AND/OR REALIGNMENT AND EXTENDING THE SADDLE ROAD FROM THE HILO TERMINUS TO THE QUEEN KAAHUMANU HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		8,175	
		TOTAL FUNDING	TRN	1,635 E	E
			TRN	6,540 N	N
88.	T011	PUAINAKO ST WIDENING / REALIGNMENT, KANOELEHUA AVE TO KOMOHANA ST, HAWAII			
		LAND ACQUISITION AND DESIGN FOR WIDENING AND REALIGNING PUAINAKO STREET FROM 2 TO 4 LANES FROM KANOELEHUA STREET TO KOMOHANA STREET. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		4,650	
		DESIGN		1,600	
		TOTAL FUNDING	TRN	1,250 E	E
			TRN	5,000 N	N
89.	T139	SADDLE ROAD MAINTENANCE BASEYARD, VICINITY OF MAUNA KEA STATE PARK, HAWAII			
		LAND ACQUISITION AND CONSTRUCTION FOR A ROAD MAINTENANCE FACILITY THAT INCLUDES MAINTENANCE AND OFFICE STRUCTURES, SITE IMPROVEMENTS, LAND ACQUISITION, STORAGE FACILITIES, AND OTHER RELATED IMPROVEMENTS.			
		LAND		100	
		CONSTRUCTION		7,522	
		TOTAL FUNDING	TRN	7,622 E	E
90.	T082	QUEEN KAAHUMANU HIGHWAY WIDENING, HAWAII			
		CONSTRUCTION FOR THE WIDENING OF QUEEN KAAHUMANU HIGHWAY TO A FOUR-LANE DIVIDED HIGHWAY FROM VICINITY OF KEALAKEHE PARKWAY TO VICINITY OF KEAHOE AIRPORT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		27,700	
		TOTAL FUNDING	TRN	10,900 E	E
			TRN	16,800 N	N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
91.		MAMANE STREET INTERSECTION AND SIDEWALK, HONOKAA, HAWAII			
		CONSTRUCTION FOR IMPROVEMENTS TO INTERSECTION AND SIDEWALK FROM LEHUA STREET TO PLUMERIA STREET; PROVIDE PEDESTRIAN CONNECTIVITY BETWEEN TOWN AND NHERC AND STATE LONG-TERM CARE AND EMERGENCY ROOM.			
		CONSTRUCTION		1,000	
		TOTAL FUNDING TRN		1,000 E	E
92.		PAHOA BYPASS/POST OFFICE ROAD INTERSECTION, HAWAII			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TRAFFIC SIGNAL AT THE PAHOA BYPASS/POST OFFICE ROAD INTERSECTION.			
		PLANS		1	
		DESIGN		100	
		CONSTRUCTION		1,898	
		EQUIPMENT		1	
		TOTAL FUNDING TRN		2,000 E	E
TRN531 - MAUI HIGHWAYS					
93.	V092	HONOAPILANI HIGHWAY SHORELINE IMPROVEMENTS, VICINITY OF OLOWALU, MAUI			
		CONSTRUCTION FOR SHORELINE IMPROVEMENTS TO INCLUDE SHORELINE EROSION MITIGATION AND ROADWAY WORK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		3,000	
		TOTAL FUNDING TRN		600 E	E
		TRN		2,400 N	N
94.	V060	KIHEI-UPCOUNTRY HIGHWAY, MAUI			
		LAND ACQUISITION FOR A NEW TWO-LANE HIGHWAY FROM KIHEI TO UPCOUNTRY MAUI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		3,600	
		TOTAL FUNDING TRN		720 E	E
		TRN		2,880 N	N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
95.	V094	HONOAPIILANI HIGHWAY, REHABILITATION AND/OR REPLACEMENT OF HONOLUA BRIDGE, MAUI			
		LAND ACQUISITION AND CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF A CONCRETE TEE-BEAM BRIDGE ON HONOAPIILANI HIGHWAY IN THE VICINITY OF HONOLUA BAY TO INCLUDE BRIDGE RAILINGS AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		63	
		CONSTRUCTION			5,400
		TOTAL FUNDING	TRN	13 E	1,080 E
			TRN	50 N	4,320 N
96.	W013	KAMEHAMEHA V HWY, MAKAKUPAIA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, MOLOKAI			
		CONSTRUCTION FOR THE REHABILITATION AND/OR REPLACEMENT OF MAKAKUPAIA BRIDGE TO INCLUDE BRIDGE RAILINGS AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			599
		TOTAL FUNDING	TRN	E	120 E
			TRN	N	479 N
97.	V109	HANA HIGHWAY, KAILUA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, MAUI			
		DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF KAILUA STREAM BRIDGE ALONG HANA HIGHWAY (ROUTE 360). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN			600
		TOTAL FUNDING	TRN	E	120 E
			TRN	N	480 N
98.	V110	HANA HIGHWAY, PUOHOKAMOA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, MAUI			
		DESIGN AND LAND ACQUISITION FOR REHABILITATION AND/OR REPLACEMENT OF PUOHOKAMOA STREAM BRIDGE ALONG HANA HIGHWAY (ROUTE 360). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND			180
		DESIGN		730	
		TOTAL FUNDING	TRN	146 E	36 E
			TRN	584 N	144 N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
99.	V111	HANA HIGHWAY, KOPILIULA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, MAUI			
		DESIGN AND LAND ACQUISITION FOR REHABILITATION AND/OR REPLACEMENT OF KOPILIULA STREAM BRIDGE ALONG HANA HIGHWAY (ROUTE 360). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND DESIGN		870	235
		TOTAL FUNDING	TRN	174E	47E
			TRN	696N	188N
100.	V112	HANA HIGHWAY, MAKANALI STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, MAUI			
		DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF MAKANALI STREAM BRIDGE ALONG HANA HIGHWAY (ROUTE 360). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN			615
		TOTAL FUNDING	TRN	E	123E
			TRN	N	492N
101.	V113	HANA HIGHWAY, MOKULEHUA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, MAUI			
		LAND ACQUISITION AND DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF MOKULEHUA STREAM BRIDGE ALONG HANA HIGHWAY (ROUTE 360). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND DESIGN		800	200
		TOTAL FUNDING	TRN	160E	40E
			TRN	640N	160N
102.	V114	HANA HIGHWAY, ULAINO STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, MAUI			
		LAND ACQUISITION AND DESIGN FOR REHABILITATION AND/OR REPLACEMENT OF ULAINO STREAM BRIDGE ALONG HANA HIGHWAY (ROUTE 360). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND DESIGN		755	195
		TOTAL FUNDING	TRN	151E	39E
			TRN	604N	156N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
103.	V095	HALEAKALA HIGHWAY WIDENING AT MILE POST 0.8, MAUI			
		LAND ACQUISITION AND DESIGN FOR WIDENING THE HIGHWAY FROM ONE LANE TO TWO LANES, EXTENDING A BOX CULVERT, AND CONSTRUCTING HEADWALLS AND WING WALLS.			
		LAND			250
		DESIGN		300	
		TOTAL FUNDING	TRN	300 E	250 E
104.	VP1101	HALEAKALA HIGHWAY INTERSECTION IMPROVEMENTS AT KULA HIGHWAY, MAUI			
		CONSTRUCTION TO INSTALL RIGHT-TURN LANE ON WEST-BOUND HALEAKALA HIGHWAY, INSTALL WALKWAYS AND PAVED SHOULDERS AND/OR SIDEWALKS FROM INTERSECTION TO KING KEKAULIKE HIGH SCHOOL ENTRANCES, AND TO MAKE TRAFFIC SIGNAL IMPROVEMENTS, SIGNAGE, MARKINGS, AND OTHER RELATED IMPROVEMENTS.			
		CONSTRUCTION		150	
		TOTAL FUNDING	TRN	150 E	E
105.	V083	TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES, MAUI			
		CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATION, INCLUDING ELIMINATING CONSTRUCTIONS, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, CONSTRUCTING TURNING LANES, ACCELERATION AND/OR DECELERATION LANES, AND OTHER IMPROVEMENTS.			
		CONSTRUCTION			580
		TOTAL FUNDING	TRN	E	580 E
106.	VP1001	HALEAKALA HIGHWAY, INTERSECTION IMPROVEMENTS AT MAKAWAO AVENUE, MAUI			
		CONSTRUCTION TO EXTEND THE LEFT TURN LANE AT MAKAWAO AVENUE TO HALEAKALA HIGHWAY AND CONSTRUCT PEDESTRIAN FACILITIES.			
		CONSTRUCTION		3,250	
		TOTAL FUNDING	TRN	2,000 E	E
			TRN	1,250 S	S

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
107.	V096	HANA HIGHWAY WIDENING, KAAHUMANU AVENUE TO HALEAKALA HIGHWAY, MAUI			
		LAND ACQUISITION FOR THE WIDENING OF HANA HIGHWAY FROM KAAHUMANU AVENUE TO HALEAKALA HIGHWAY, FROM FOUR TO SIX LANES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		19	
		TOTAL FUNDING	TRN	4E	E
			TRN	15N	N
108.	V076	HANA HIGHWAY/KAAHUMANU AVENUE BEAUTIFICATION, DAIRY ROAD TO NANILOA OVERPASS, MAUI			
		CONSTRUCTION FOR THE BEAUTIFICATION OF THE MAIN CORRIDOR BETWEEN KAHULUI AND WAILUKU, TO INCLUDE LANDSCAPE AND IRRIGATION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION		1,545	
		TOTAL FUNDING	TRN	309E	E
			TRN	1,236N	N
109.		HONOAPIILANI HIGHWAY, UKUMEHAME TO OLOWALU, MAUI			
		DESIGN AND CONSTRUCTION FOR SAFETY IMPROVEMENTS TO HIGHWAY FACILITIES AND INTERSECTIONS FROM UKUMEHAME TO OLOWALU ON HONOAPIILANI HIGHWAY.			
		DESIGN		5	
		CONSTRUCTION		125	
		TOTAL FUNDING	TRN	130E	E
TRN561 - KAUAI HIGHWAYS					
110.	X137	KAUMUALII HIGHWAY, HANAPEPE RIVER BRIDGE REHABILITATION AND/OR REPLACEMENT, KAUAI			
		LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF HANAPEPE RIVER BRIDGE ALONG KAUMUALII HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		100	
		DESIGN		2,500	
		CONSTRUCTION			25,000
		TOTAL FUNDING	TRN	520E	5,000E
			TRN	2,080N	20,000N

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
111.	X051	GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS, KAUAI			
		DESIGN AND CONSTRUCTION FOR INSTALLING AND/OR UPGRADING OF GUARDRAILS, END TERMINALS, TRANSITIONS, BRIDGE RAILINGS, BRIDGE END POSTS AND CRASH ATTENUATORS; AND RECONSTRUCTING AND PAVING OF SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN			100
		CONSTRUCTION		247	
		TOTAL FUNDING	TRN	49 E	20 E
			TRN	198 N	80 N
112.	X121	KUHIO HIGHWAY, REPLACEMENT OF WAINIHA BRIDGES NOS. 1, 2, AND 3, KAUAI			
		LAND ACQUISITION AND DESIGN FOR REPLACEMENT OF WAINIHA BRIDGES NOS. 1, 2, AND 3. PROJECT WILL CONSTRUCT BRIDGE APPROACHES, DETOUR ROADS, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND			170
		DESIGN		500	
		TOTAL FUNDING	TRN	499 E	170 E
			TRN	1 N	N
113.	X124	KUHIO HIGHWAY, KAPAIA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, KAUAI			
		CONSTRUCTION FOR REHABILITATION AND/OR REPLACEMENT OF A MULTI-TEE BEAM REINFORCED CONCRETE GIRDER BRIDGE ON KUHIO HIGHWAY IN THE VICINITY OF KAPAIA TO INCLUDE PEDESTRIAN WALKWAYS, BRIDGE RAILINGS AND APPROACHES, AND OTHER IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		CONSTRUCTION			1,145
		TOTAL FUNDING	TRN	E	229 E
			TRN	N	916 N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
114.	X127	KAPULE HWY/RICE ST/WAAPA RD IMPROVEMENTS AND STRENGTHENING/WIDENING OF NAWILIWILI BRIDGE, KAUAI			
		LAND ACQUISITION FOR THE IMPROVEMENT OF KAPULE HIGHWAY, RICE STREET AND WAAPA ROAD; AND STRENGTHENING/WIDENING OF NAWILIWILI BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND			254
		TOTAL FUNDING	TRN	E	51E
			TRN	N	203N
115.	X130	KUHIO HIGHWAY, MAILIHUNA RD INTERSECTION IMPROVEMENTS AND KAPAA STREAM BRIDGE REHABILITATION AND/OR REPLACEMENT, KAUAI			
		DESIGN AND LAND ACQUISITION FOR THE CONSTRUCTION OF INTERSECTION SAFETY IMPROVEMENTS AND REHABILITATION AND/OR REPLACEMENT OF KAPAA STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND			520
		DESIGN		40	
		TOTAL FUNDING	TRN	8E	104E
			TRN	32N	416N
116.	X136	KAUMUALII HIGHWAY, BRIDGE NO. 7E REHABILITATION AND/OR REPLACEMENT, KAUAI			
		DESIGN AND LAND ACQUISITION FOR REHABILITATION AND/OR REPLACEMENT OF BRIDGE NO. 7E ALONG KAUMUALII HIGHWAY (ROUTE 50). THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND			65
		DESIGN		725	
		TOTAL FUNDING	TRN	145E	13E
			TRN	580N	52N
117.	X134	KUHIO HIGHWAY, SLOPE STABILIZATION AT LUMAHAI HILLSIDE, KAUAI			
		LAND ACQUISITION AND CONSTRUCTION FOR SLOPE STABILIZATION AT LUMAHAI HILLSIDE.			
		LAND		400	
		CONSTRUCTION			2,000
		TOTAL FUNDING	TRN	400E	2,000E

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
118.	X112	TRAFFIC OPERATIONAL IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAYS, KAUAI			
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATION, INCLUDING ELIMINATING CONSTRUCTIONS, MODIFYING AND/ OR INSTALLING TRAFFIC SIGNALS, CONSTRUCTING TURNING LANES, ACCELERATION AND/OR DECELERATION LANES, AND OTHER IMPROVEMENTS.			
		LAND		824	
		DESIGN		376	288
		CONSTRUCTION		3,430	1,000
		TOTAL FUNDING	TRN	4,630 E	1,288 E

TRN595 - HIGHWAYS ADMINISTRATION

119.	X225	HIGHWAYS DIVISION CAPITAL IMPROVEMENTS PROGRAM PROJECT STAFF COSTS, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR IMPLEMENTATION OF CIP PROJECTS FOR DEPARTMENT OF TRANSPORTATION'S HIGHWAYS DIVISION. PROJECTS MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CIP PROJECT RELATED POSITIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		1	1
		LAND		1	1
		DESIGN		1	1
		CONSTRUCTION		23,997	23,997
		TOTAL FUNDING	TRN	16,000 B	16,000 B
			TRN	8,000 N	8,000 N
120.	X098	IMPROVEMENTS TO INTERSECTIONS AND HIGHWAY FACILITIES, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR TRAFFIC SAFETY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		500	500
		CONSTRUCTION		1,700	2,300
		TOTAL FUNDING	TRN	220 E	280 E
			TRN	1,980 N	2,520 N

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
121.	X224	HIGHWAY SHORELINE PROTECTION, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR SHORELINE PROTECTION IMPROVEMENTS OF EXISTING STATE HIGHWAY FACILITIES, INCLUDING SHORELINE PROTECTION STRUCTURES, RELOCATION AND REALIGNMENT OF THE HIGHWAY AND BEACH FILL/NOURISHMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		1,385	
		CONSTRUCTION		6,837	15,945
		TOTAL FUNDING	TRN	6,004 E	3,189 E
			TRN	2,218 N	12,756 N
122.	X097	MISCELLANEOUS DRAINAGE IMPROVEMENTS, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR DRAINAGE IMPROVEMENTS TO EXISTING HIGHWAY FACILITIES INCLUDING INSTALLATION OF DRAINAGE FACILITIES, CATCH BASINS, GRATED DROP INLETS, LINED SWALES, HEADWALLS, AND CULVERTS AT VARIOUS LOCATIONS.			
		DESIGN		200	200
		CONSTRUCTION		610	2,200
		TOTAL FUNDING	TRN	810 E	2,400 E
123.	X099	HIGHWAY PLANNING, STATEWIDE			
		PLANS FOR FEDERAL AID AND NON-FEDERAL AID PROGRAMS AND PROJECTS THAT INCLUDE ROADWAY CLASSIFICATION, DATA COLLECTION, LONG- AND MID-RANGE PLANNING, TRANSPORTATION NEEDS STUDIES, RESEARCH, HRS 343/NEPA STUDIES, CORRIDOR STUDIES, AND SCOPING. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		14,528	8,025
		TOTAL FUNDING	TRN	3,026 E	1,725 E
			TRN	11,502 N	6,300 N
124.	X091	ADA AND PEDESTRIAN IMPROVEMENTS AT VARIOUS LOCATIONS, STATEWIDE			
		DESIGN AND CONSTRUCTION TO PROVIDE FOR AND IMPROVE EXISTING ADA AND PEDESTRIAN FACILITIES ON STATE HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		DESIGN		200	
		CONSTRUCTION		285	2,000
		TOTAL FUNDING	TRN	325 E	400 E
			TRN	160 N	1,600 N

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
125.	X096	CLOSE-OUT OF HIGHWAY RIGHTS-OF-WAY, STATEWIDE			
		LAND ACQUISITION FOR COMPLETION OF ACQUISITION OF OUTSTANDING RIGHT-OF-WAY PARCELS ON PREVIOUSLY CONSTRUCTED PROJECTS OR PROJECTS WITH NECESSARY MITIGATIVE RESPONSES. ALSO, TO PROVIDE FOR THE TRANSFER OF REAL ESTATE INTERESTS FROM THE STATE TO THE COUNTIES FOR THE IMPLEMENTATION OF THE STATE HIGHWAY SYSTEM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		LAND		300	
		TOTAL FUNDING	TRN	299 E	E
			TRN	1 N	N

D. ENVIRONMENTAL PROTECTION

HTH840 - ENVIRONMENTAL MANAGEMENT

1. 840141 WASTEWATER TREATMENT REVOLVING FUND FOR POLLUTION CONTROL, STATEWIDE

CONSTRUCTION FUNDS TO PROVIDE STATE MATCH (20%) FOR FEDERAL CAPITALIZATION FOR WASTEWATER PROJECTS. FUNDS TO BE TRANSFERRED TO THE WATER POLLUTION CONTROL REVOLVING FUND PURSUANT TO CHAPTER 342D, HRS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

CONSTRUCTION		13,146	13,146
TOTAL FUNDING	HTH	2,200 C	2,200 C
	HTH	10,946 N	10,946 N

2. 840142 SAFE DRINKING WATER REVOLVING FUND, STATEWIDE

CONSTRUCTION FUNDS TO PROVIDE STATE MATCH (20%) FOR FEDERAL CAPITALIZATION FOR DRINKING WATER PROJECTS. FUNDS TO BE TRANSFERRED TO THE DRINKING WATER TREATMENT REVOLVING FUND LOAN, PURSUANT TO CHAPTER 340E, HRS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

CONSTRUCTION		10,950	10,950
TOTAL FUNDING	HTH	1,825 C	1,825 C
	HTH	9,125 N	9,125 N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F

LNR402 - NATIVE RESOURCES AND FIRE PROTECTION PROGRAM

3. D01E DOFAW BASEYARD IMPROVEMENTS, STATEWIDE

PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AT DIVISION OF FORESTRY AND WILDLIFE BASEYARD FACILITIES.

PLANS	100	
DESIGN	300	
CONSTRUCTION	1,589	8,537
TOTAL FUNDING LNR	1,989C	8,537C

4. KAWAINUI MARSH, OAHU

PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR ENVIRONMENTAL CLEAN-UP AND RESTORATION OF ENDANGERED HABITATS AND WETLANDS.

PLANS	1	
DESIGN	100	
CONSTRUCTION	923	
EQUIPMENT	1	
TOTAL FUNDING LNR	1,025C	C

LNR404 - WATER RESOURCES

5. G75B DEEP MONITOR WELLS, STATEWIDE

PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION TO CONSTRUCT AND/OR REPAIR DEEP MONITOR WELLS STATEWIDE TO MONITOR THE HEALTH OF DRINKING WATER AQUIFERS AND OTHER RELATED COSTS.

PLANS	1	
LAND	1	
DESIGN	1	
CONSTRUCTION	1,497	
TOTAL FUNDING LNR	1,500C	C

LNR407 - NATURAL AREA RESERVES AND WATERSHED MANAGEMENT

6. D01A WATERSHED INITIATIVE, STATEWIDE

DESIGN AND CONSTRUCTION FOR DLNR DIVISION OF FORESTRY AND WILDLIFE WATERSHED INITIATIVE FUNDING SUPPORT FOR WATERSHED PROTECTION, MANAGEMENT AND ADMINISTRATION. THE LEGISLATURE FINDS AND DECLARES THAT THE APPROPRIATION IS IN THE PUBLIC INTEREST AND FOR THE PUBLIC'S HEALTH, SAFETY AND GENERAL WELFARE OF THE STATE.

DESIGN	1	1
CONSTRUCTION	4,999	2,499
TOTAL FUNDING LNR	5,000C	2,500C

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	FISCAL YEAR 2013-2014	FISCAL YEAR 2014-2015
			M O F	M O F
7.	D01H	MANUKA NATURAL AREA RESERVE BOUNDARY FENCE, HAWAII		
		PLANS, DESIGN AND CONSTRUCTION FOR		
		UNGULATE-PROOF BOUNDARY FENCE AT		
		THE MANUKA NATURAL AREA RESERVE.		
		PLANS	50	
		DESIGN	100	
		CONSTRUCTION	1,350	2,000
		TOTAL FUNDING LNR	1,500 C	2,000 C

LNR906 - LNR - NATURAL AND PHYSICAL ENVIRONMENT

8.	G01CS	CAPITAL IMPROVEMENT PROGRAM STAFF COSTS, STATEWIDE			
		PLANS FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE DEPARTMENT OF LAND AND NATURAL RESOURCES. PROJECT MAY INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENT PROGRAM RELATED POSITIONS.			
		PLANS		2,597	2,597
		TOTAL FUNDING	LNR	2,597 C	2,597 C

E. HEALTH

HTH595 - HEALTH RESOURCES ADMINISTRATION

1.	MOLOKAI OHANA HEALTH CENTER, MOLOKAI				
		DESIGN AND CONSTRUCTION FOR RENOVATION AND RELOCATION OF THE MOLOKAI COMMUNITY HEALTH CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		DESIGN		50	
		CONSTRUCTION		450	
		TOTAL FUNDING	HTH	500 C	C
2.	WAI'ANAE COAST COMPREHENSIVE HEALTH CENTER (WCCHC), OAHU				
		CONSTRUCTION TO UPGRADE AND EXPAND EMERGENCY SERVICES BUILDING FOR THE WAI'ANAE COAST COMPREHENSIVE HEALTH CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		500	
		TOTAL FUNDING	HTH	500 C	C

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
3.		KALIHI-PALAMA HEALTH CENTER, OAHU			
		CONSTRUCTION FOR A NEW HEALTH AND HEALING HOME FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		3,000	
		TOTAL FUNDING	HTH	3,000 C	C
4.		HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION, HAWAII			
		CONSTRUCTION FOR A NEW ADULT DAY CARE FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		1,000	
		TOTAL FUNDING	HTH	1,000 C	C
HTH210 - HAWAII HEALTH SYSTEMS CORPORATION - CORPORATE OFFICE					
5.		HAWAII HEALTH SYSTEMS CORPORATION, INFORMATION/ ELECTRONIC MEDICAL RECORD SYSTEM, STATEWIDE			
		EQUIPMENT TO IMPLEMENT THE HIS/EMR SYSTEM AT HHSC FACILITIES.			
		EQUIPMENT		14,321	359
		TOTAL FUNDING	HTH	14,321 C	359 C
HTH211 - KAHUKU HOSPITAL					
6.		KAHUKU MEDICAL CENTER, OAHU			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR REPAIRS, MAINTENANCE, UPGRADES AND IMPROVEMENTS, TO INCLUDE HEALTH AND SAFETY PROJECTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1	1
		DESIGN		1	1
		CONSTRUCTION		1,459	760
		EQUIPMENT		1	1
		TOTAL FUNDING	HTH	1,462 C	763 C
HTH212 - HAWAII HEALTH SYSTEMS CORPORATION - REGIONS					
7.		HAWAII HEALTH SYSTEMS CORPORATION, LUMP SUM CIP, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR REPAIRS, MAINTENANCE, UPGRADES AND IMPROVEMENTS, TO INCLUDE HEALTH AND SAFETY PROJECTS, FOR THE HAWAII HEALTH SYSTEMS CORPORATION.			
		PLANS		1	1
		DESIGN		1	1
		CONSTRUCTION		39,997	19,997
		EQUIPMENT		1	1
		TOTAL FUNDING	HTH	40,000 C	20,000 C

CAPITAL IMPROVEMENT PROJECTS

				APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
HTH430 - ADULT MENTAL HEALTH - INPATIENT					
8.	430142	HAWAII STATE HOSPITAL, REPAIRS AND IMPROVEMENTS, OAHU			
		DESIGN AND CONSTRUCTION FOR VARIOUS REPAIRS AND IMPROVEMENTS.			
		DESIGN		300	
		CONSTRUCTION		950	
		TOTAL FUNDING AGS		1,250 C	C
9.		HAWAII STATE HOSPITAL, OAHU			
		DESIGN AND CONSTRUCTION FOR THE DEMOLITION OF THE GODDARD BUILDING AND REMOVAL OF HAZARDOUS MATERIALS.			
		DESIGN		500	
		CONSTRUCTION		2,000	
		TOTAL FUNDING AGS		2,500 C	C
HTH907 - GENERAL ADMINISTRATION					
10.	907141	DEPARTMENT OF HEALTH, HEALTH AND SAFETY, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO HEALTH FACILITIES STATEWIDE, NECESSARY TO MAINTAIN HEALTH AND SAFETY FOR CLIENTS AND STAFF.			
		DESIGN		500	72
		CONSTRUCTION		4,500	3,400
		TOTAL FUNDING AGS		5,000 C	3,472 C
11.	907142	DEPARTMENT OF HEALTH, ENERGY EFFICIENCY IMPROVEMENTS, STATEWIDE			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO HEALTH FACILITIES STATEWIDE TO PROVIDE FOR ENERGY SAVINGS.			
		DESIGN		1,000	100
		CONSTRUCTION		3,665	525
		TOTAL FUNDING AGS		4,665 C	625 C
12.		WAIMANO RIDGE, OAHU			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO WAIMANO BUILDINGS AND SITE FOR PROGRAMS RELOCATING FROM AAFES BUILDING.			
		DESIGN		1	
		CONSTRUCTION		10,027	
		TOTAL FUNDING HTH		10,028 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F

F. SOCIAL SERVICES

HMS501 - IN-COMMUNITY YOUTH PROGRAMS

1. HALE 'OPIO KAUAI INC., KAUAI
CONSTRUCTION FOR RENOVATIONS, UPGRADES AND ENERGY IMPROVEMENTS, TO INCLUDE PHOTOVOLTAIC SYSTEMS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.
CONSTRUCTION 435
TOTAL FUNDING HMS 435C C

DEF112 - SERVICES TO VETERANS

2. OAHU VETERANS COUNCIL, OAHU
PLANS, DESIGN AND CONSTRUCTION FOR PHASE 3 OF THE OAHU VETERANS CENTER LOCATED AT FOSTER VILLAGE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.
PLANS 1
DESIGN 1
CONSTRUCTION 1,998
TOTAL FUNDING DEF 2,000C C
3. WEST HAWAII VETERANS CENTER, HAWAII
PLANS AND DESIGN FOR SITE SELECTION FOR A NEW VETERANS CENTER IN WEST HAWAII.
PLANS 100
DESIGN 200
TOTAL FUNDING DEF 300C C

HMS220 - RENTAL HOUSING SERVICES

4. HPHA01 LUMP SUM PUBLIC HOUSING DEVELOPMENT, IMPROVEMENTS, AND RENOVATIONS, STATEWIDE
PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT TO DEVELOP, UPGRADE OR RENOVATE PUBLIC HOUSING FACILITIES. INCLUDING GROUND & SITE IMPROVEMENTS, INFRASTRUCTURE, EQUIPMENT, APPURTENANCES AND ALL RELATED OR ASSOCIATED PROJECT COSTS FOR PUBLIC HOUSING DEVELOPMENT, IMPROVEMENTS, AND RENOVATIONS, STATEWIDE.
PLANS 200
DESIGN 900
CONSTRUCTION 43,800
EQUIPMENT 100
TOTAL FUNDING HMS 45,000C C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
5.		THE SALVATION ARMY FAMILY INTERVENTION SERVICES, HAWAII			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR RECONSTRUCTION AND/OR RENOVATION OF THE FAMILY INTERVENTION SERVICE FACILITY IN HILO, HAWAII. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		640	
		EQUIPMENT		1	
		TOTAL FUNDING HMS		643 C	C

HHL602 - PLANNING AND DEVELOPMENT FOR HAWAIIAN HOMESTEADS

- | | | | | | |
|----|--------|---|--|----------|----------|
| 6. | 14002 | NAHASDA DEVELOPMENT PROJECTS, STATEWIDE | | | |
| | | PLANS, DESIGN AND CONSTRUCTION FOR VARIOUS HAWAIIAN HOMESTEAD PROJECTS AND IMPROVEMENTS STATEWIDE, PURSUANT TO THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT, PUBLIC LAW 107-73, 107TH CONGRESS. FUNDS NOT NEEDED IN A COST ELEMENT MAY BE USED IN ANOTHER. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT. | | | |
| | | PLANS | | 1 | 1 |
| | | DESIGN | | 1 | 1 |
| | | CONSTRUCTION | | 19,998 | 19,998 |
| | | TOTAL FUNDING HHL | | 20,000 N | 20,000 N |
| 7. | P14001 | PAPAKOLEA SEWER SYSTEM IMPROVEMENTS, OAHU | | | |
| | | DESIGN FOR SEWER SYSTEM IMPROVEMENTS AND SLOPE STABILIZATION. | | | |
| | | DESIGN | | 1,000 | |
| | | TOTAL FUNDING HHL | | 1,000 C | C |
| 8. | | WAIMANALO HAWAIIAN HOMESTEAD COMMUNITY CENTER, OAHU | | | |
| | | DESIGN AND CONSTRUCTION FOR PHASE IV, THE COMMUNITY TECHNOLOGY, EDUCATION AND EMPLOYMENT CENTER (CTEEC) OF THE WAIMANALO HAWAIIAN HOMESTEAD COMMUNITY CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS. | | | |
| | | DESIGN | | 1 | |
| | | CONSTRUCTION | | 749 | |
| | | TOTAL FUNDING HHL | | 750 C | C |

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
9.		KAPOLEI COMMUNITY DEVELOPMENT CORPORATION, OAHU			
		CONSTRUCTION OF THE KAPOLEI COMMUNITY DEVELOPMENT CORPORATION HERITAGE CENTER MULTI-PURPOSE FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		1,150	
		TOTAL FUNDING	HHL	1,150C	C
HTH904 - EXECUTIVE OFFICE ON AGING					
10.		LANAKILA PACIFIC, OAHU			
		CONSTRUCTION AND EQUIPMENT FOR LANAKILA PACIFIC'S CENTRAL FACILITY TO ADDRESS HEALTH, SAFETY AND CAPACITY ISSUES. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		279	
		EQUIPMENT		1	
		TOTAL FUNDING	HTH	280C	C
HMS904 - GENERAL ADMINISTRATION (DHS)					
11.	F14001	MODERNIZATION OF DEPARTMENT OF HUMAN SERVICES ELIGIBILITY AND CASE MANAGEMENT SYSTEMS, STATEWIDE			
		PLANS AND DESIGN FOR THE MODERNIZATION OF THE ELIGIBILITY SYSTEM FOR THE DHS PUBLIC ASSISTANCE PROGRAMS AND CASE MANAGEMENT SYSTEM FOR THE SOCIAL SERVICES PROGRAMS.			
		PLANS		1	
		DESIGN		3,999	
		TOTAL FUNDING	HMS	4,000C	C
G. FORMAL EDUCATION					
EDN100 - SCHOOL BASED BUDGETING					
1.	10	LUMP SUM CIP - PROJECT ADJUSTMENT FUND, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT. OTHER DEPARTMENT OF EDUCATION PROJECTS WITHIN THIS ACT WITH UNREQUIRED BALANCES MAY BE TRANSFERRED INTO THIS PROJECT.			
		PLANS		1	1
		LAND		1	1
		DESIGN		600	600
		CONSTRUCTION		1,397	1,397
		EQUIPMENT		1	1
		TOTAL FUNDING	EDN	2,000C	2,000C

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
2.	03	LUMP SUM CIP - CONDITION, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT TO MAINTAIN AND IMPROVE FACILITIES AND INFRASTRUCTURE, INCLUDING HAZARDOUS MATERIALS REMEDIATION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1	1
		DESIGN		13,860	2,500
		CONSTRUCTION		58,865	17,498
		EQUIPMENT		100	1
		TOTAL FUNDING EDN		72,826C	20,000C
3.		LUMP SUM CIP - PROGRAM SUPPORT, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR PROGRAM SUPPORT INCLUDING NEW FACILITIES, TEMPORARY FACILITIES, AND IMPROVEMENTS AND/OR ADDITIONS TO EXISTING FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1	1
		LAND		1	1
		DESIGN		320	1,660
		CONSTRUCTION		22,174	2,300
		EQUIPMENT		128	38
		TOTAL FUNDING EDN		22,624C	4,000C
4.	05	LUMP SUM CIP - CAPACITY, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR CAPACITY, INCLUDING NEW FACILITIES, TEMPORARY FACILITIES, AND EXPANSION/ REPURPOSING OF EXISTING FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1	1
		LAND		1	1
		DESIGN		2,498	2,000
		CONSTRUCTION		13,250	16,998
		EQUIPMENT		1,000	1,000
		TOTAL FUNDING EDN		16,750C	20,000C
5.	06	LUMP SUM CIP - EQUITY, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR EQUITY, INCLUDING RENOVATION, EXPANSION AND/OR REPLACEMENT OF FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1,000	1,000
		LAND		1	1
		DESIGN		3,400	1,550
		CONSTRUCTION		17,945	7,395
		EQUIPMENT		54	54
		TOTAL FUNDING EDN		22,400C	10,000C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
6.		AIEA ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR CAMPUS-WIDE AIR CONDITIONING, GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		200	
		CONSTRUCTION		1,300	
		TOTAL FUNDING EDN		1,500 C	
7.		AIEA HIGH SCHOOL, OAHU			
		DESIGN FOR A WEIGHT TRAINING FACILITY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			140
		TOTAL FUNDING EDN		C	140 C
8.		AIEA HIGH SCHOOL, OAHU			
		PLANS AND DESIGN FOR THE REPLACEMENT OF FOOTBALL FIELD AND TRACK; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		250	
		DESIGN		250	
		TOTAL FUNDING EDN		500 C	
9.		AIEA INTERMEDIATE SCHOOL, OAHU			
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO CAFETERIA STAGE AND SUPPORT SPACES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		10	
		CONSTRUCTION		540	
		EQUIPMENT		10	
		TOTAL FUNDING EDN		560 C	
10.		ALA WAI ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION OF ADDITIONAL SECURITY CAMERAS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		1	
		CONSTRUCTION		8	
		EQUIPMENT		1	
		TOTAL FUNDING EDN		10 C	
11.		ALA WAI ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR COVERED WALKWAYS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		100	
		CONSTRUCTION		600	
		TOTAL FUNDING EDN		700 C	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
12.		ALVAH SCOTT ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR THE EXPANSION OF PARKING LOT FOR BUS TURN AROUND; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		25	
		CONSTRUCTION		700	
		TOTAL FUNDING EDN		725 C	C
13.		AUGUST AHRENS ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CEILING FANS IN EXISTING PORTABLES AND SECOND FLOOR CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		1	
		CONSTRUCTION		178	
		EQUIPMENT		1	
		TOTAL FUNDING EDN		180 C	C
14.		AUGUST AHRENS ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR NEW WALKWAY AT FRONT OF CAMPUS FOR PEDESTRIAN SAFETY. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		50	
		CONSTRUCTION		250	
		TOTAL FUNDING EDN		300 C	C
15.		CAMPBELL HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR ELECTRICAL UPGRADES TO EXISTING FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		100	
		CONSTRUCTION		900	
		TOTAL FUNDING EDN		1,000 C	C
16.		CASTLE HIGH SCHOOL, OAHU			
		PLANS AND DESIGN FOR THE EXPANSION OF CASTLE HIGH SCHOOL'S CAFETERIA. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		100	
		DESIGN		800	
		TOTAL FUNDING EDN		900 C	C
17.		EAST KAPOLEI HIGH SCHOOL, OAHU			
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR NEW HIGH SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			100
		CONSTRUCTION			4,800
		EQUIPMENT			100
		TOTAL FUNDING EDN		C	5,000 C

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
18.		EAST KAPOLEI MIDDLE SCHOOL, OAHU			
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR NEW MIDDLE SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		50	
		CONSTRUCTION		2,940	
		EQUIPMENT		10	
		TOTAL FUNDING	EDN	3,000C	C
19.		EWA MAKAI MIDDLE SCHOOL, OAHU			
		CONSTRUCTION FOR NEW WING. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION		18,400	
		TOTAL FUNDING	EDN	18,400C	C
20.		FARRINGTON HIGH SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE MODERNIZATION OF CAMPUS FACILITIES TO INCLUDE THE TRACK AND OTHER ATHLETIC FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		150	
		DESIGN		800	
		CONSTRUCTION		8,550	
		EQUIPMENT		500	
		TOTAL FUNDING	EDN	10,000C	C
21.		HAIKU ELEMENTARY SCHOOL, MAUI			
		PLANS, DESIGN AND CONSTRUCTION OF TWO PORTABLE CLASSROOMS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		698	
		TOTAL FUNDING	EDN	700C	C
22.		HONOKAA HIGH SCHOOL, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION FOR CONSTRUCTION OF COVERED BLEACHERS AND OTHER ATHLETIC FACILITY IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		50	
		DESIGN		150	
		CONSTRUCTION		700	
		TOTAL FUNDING	EDN	900C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
23.		HONOKAA HIGH SCHOOL, HAWAII			
		DESIGN AND CONSTRUCTION FOR ELECTRICAL AND LIGHTING IMPROVEMENTS IN GYMNASIUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		10	
		CONSTRUCTION		90	
		TOTAL FUNDING EDN		100 C	C
24.		HONOWAI ELEMENTARY SCHOOL, OAHU			
		PLANS AND DESIGN FOR A NEW EIGHT-CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		80	
		DESIGN		800	
		TOTAL FUNDING EDN		880 C	C
25.		JEFFERSON ELEMENTARY, OAHU			
		EQUIPMENT FOR SECURITY FENCING. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		EQUIPMENT		75	
		TOTAL FUNDING EDN		75 C	C
26.		KAHALA ELEMENTARY SCHOOL, OAHU			
		CONSTRUCTION FOR REPLACEMENT OF STAGE FLOOR AND CURTAINS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION		60	
		TOTAL FUNDING EDN		60 C	C
27.		KAHUKU HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR REPLACEMENT AND/OR RENOVATION OF BLEACHERS AT FOOTBALL FIELD; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		50	
		CONSTRUCTION		250	
		TOTAL FUNDING EDN		300 C	C
28.		KAILUA ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR THE RESURFACING OF THE BASKETBALL COURT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		5	
		CONSTRUCTION		55	
		TOTAL FUNDING EDN		60 C	C

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
29.		KAILUA ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION AND/OR REPLACEMENT OF LIGHTS IN THE PARKING LOT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		5	
		CONSTRUCTION		40	
		EQUIPMENT		5	
		TOTAL FUNDING	EDN	50C	C
30.		KAISER HIGH SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW TRACK AND SYNTHETIC FIELD TURF. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		100	
		DESIGN		350	
		CONSTRUCTION			4,500
		TOTAL FUNDING	EDN	450C	4,500C
31.		KANOELANI ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR A GENERAL CLASSROOM PORTABLE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		50	
		CONSTRUCTION		375	
		EQUIPMENT		50	
		TOTAL FUNDING	EDN	475C	C
32.		KAPALAMA ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR A NEW DOOR TO REPLACE AN EXISTING DOOR FOR FIRE SAFETY IMPROVEMENTS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		50	
		CONSTRUCTION		200	
		TOTAL FUNDING	EDN	250C	C
33.		KAULUWELA ELEMENTARY SCHOOL, OAHU			
		PLANS FOR NOISE ABATEMENT AND AIR CONDITIONING FOR SCHOOL CAFETERIA. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		100	
		TOTAL FUNDING	EDN	100C	C
34.		KAWANANAKOA MIDDLE SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR VARIOUS IMPROVEMENTS TO THE AUDITORIUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		200	
		DESIGN		800	
		CONSTRUCTION		4,000	5,000
		TOTAL FUNDING	EDN	5,000C	5,000C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
35.		KEALAKEHE HIGH SCHOOL, HAWAII			
		DESIGN FOR UPGRADES TO AN ALL-WEATHER AND SYNTHETIC TRACK.			
		DESIGN			300
		TOTAL FUNDING	EDN	C	300C
36.		KEAAU MIDDLE SCHOOL, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION FOR COVERED WALKWAYS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		5	
		DESIGN		20	
		CONSTRUCTION		650	
		TOTAL FUNDING	EDN	675C	C
37.		KIHEI HIGH SCHOOL, MAUI			
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW HIGH SCHOOL IN KIHEI, MAUI. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS			1,000
		DESIGN			9,000
		CONSTRUCTION			120,000
		TOTAL FUNDING	EDN	B	100,000 B
			EDN	C	30,000C
38.		KILAUEA ELEMENTARY SCHOOL, KAUAI			
		DESIGN AND CONSTRUCTION FOR RENOVATION OF BUILDING B TO USE FOR ADMINISTRATIVE OFFICES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		120	
		CONSTRUCTION		1,400	
		TOTAL FUNDING	EDN	1,520C	C
39.		KING KEKAULIKE HIGH SCHOOL, MAUI			
		CONSTRUCTION FOR A NEW AUDITORIUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION		14,000	
		TOTAL FUNDING	EDN	14,000C	C
40.		LAHAINA INTERMEDIATE SCHOOL, MAUI			
		PLANS, DESIGN AND CONSTRUCTION FOR PEDESTRIAN SAFETY IMPROVEMENTS AT SCHOOL ENTRY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES			
		PLANS		1	
		DESIGN		15	
		CONSTRUCTION		59	
		TOTAL FUNDING	EDN	75C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
41.		LIKELIKE ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO PLAYGROUND AND BASKETBALL COURT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		1	
		CONSTRUCTION		67	
		TOTAL FUNDING	EDN	68C	C
42.		MAUKA LANI ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR CAMPUS-WIDE ELECTRICAL UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		70	
		CONSTRUCTION		630	
		TOTAL FUNDING	EDN	700C	C
43.		MCKINLEY HIGH SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR RESTORATION OF BUILDING W; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN			500
		CONSTRUCTION			9,500
		TOTAL FUNDING	EDN	C	10,000C
44.		MILILANI MIDDLE SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR THE RESURFACING OF PARKING LOT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		25	
		CONSTRUCTION		275	
		TOTAL FUNDING	EDN	300C	C
45.		MILILANI PRESBYTERIAN CHURCH, OAHU			
		DESIGN AND CONSTRUCTION FOR EXPANSION OF THE PRESCHOOL FACILITY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		DESIGN		10	
		CONSTRUCTION		90	
		TOTAL FUNDING	EDN	100C	C
46.		MILILANI WAENA ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION AND/OR REPLACEMENT OF AIR CONDITIONING UNITS IN BUILDING B AND D; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		10	
		CONSTRUCTION		300	
		EQUIPMENT		15	
		TOTAL FUNDING	EDN	325C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
47.		MOANALUA HIGH SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION OF A NEW SYNTHETIC 8-LANE TRACK. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		100	
		DESIGN		300	
		CONSTRUCTION			2,100
		TOTAL FUNDING	EDN	400C	2,100C
48.		MOKAPU ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR CAMPUS-WIDE IMPROVEMENTS; TO INCLUDE MODERNIZATION OF CLASSROOMS AND OTHER FACILITIES. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		1	
		EQUIPMENT		1	
		TOTAL FUNDING	EDN	3C	C
			EDN	1N	N
49.		NAHIENAENA ELEMENTARY SCHOOL, MAUI			
		PLANS, DESIGN AND CONSTRUCTION FOR PEDESTRIAN SAFETY IMPROVEMENTS AT SCHOOL ENTRY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES			
		PLANS		1	
		DESIGN		15	
		CONSTRUCTION		59	
		TOTAL FUNDING	EDN	75C	C
50.		NUUANU ELEMENTARY SCHOOL, OAHU			
		PLANS, CONSTRUCTION AND EQUIPMENT FOR REPAIR AND RENOVATION OF WALKWAY ROOF; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1	
		CONSTRUCTION		68	
		EQUIPMENT		1	
		TOTAL FUNDING	EDN	70C	C
51.		PAHOA HIGH AND INTERMEDIATE SCHOOL, HAWAII			
		DESIGN AND CONSTRUCTION FOR RENOVATION OF GYMNASIUM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		500	
		CONSTRUCTION		3,000	
		TOTAL FUNDING	EDN	3,500C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
52.		PEARL CITY ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR CAMPUS-WIDE ELECTRICAL UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		200	
		CONSTRUCTION		800	
		TOTAL FUNDING EDN		1,000C	C
53.		PEARL CITY HIGHLANDS ELEMENTARY SCHOOL, OAHU			
		PLANS AND DESIGN FOR AN EXPANSION OF THE ADMINISTRATION BUILDING. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		20	
		DESIGN		100	
		TOTAL FUNDING EDN		120C	C
54.		PEARL CITY HIGH SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR TRACK AND FIELD IMPROVEMENTS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		250	
		CONSTRUCTION		4,650	
		EQUIPMENT		100	
		TOTAL FUNDING EDN		5,000C	C
55.		QUEEN KAAHUMANU ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN OPERABLE PARTITION TO THE CAFETERIA AND A SPLIT AIR CONDITIONING SYSTEM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		10	
		CONSTRUCTION		500	
		EQUIPMENT		30	
		TOTAL FUNDING EDN		540C	C
56.		RADFORD HIGH SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION OF MULTI-PURPOSE CLASSROOM TO INCLUDE AIR-CONDITIONING, VENTILATION, PLUMBING, AND ELECTRICAL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1	
		DESIGN		100	
		CONSTRUCTION			2,199
		TOTAL FUNDING EDN		101C	2,199C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
57.		RED HILL ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION TO RESURFACE THE DRIVEWAY AND PARKING LOT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		20	
		CONSTRUCTION		400	
		TOTAL FUNDING	EDN	420 C	C
58.		SALT LAKE ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR VARIOUS IMPROVEMENTS AND UPGRADES TO BUILDING F; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		200	
		CONSTRUCTION		1,800	
		TOTAL FUNDING	EDN	2,000 C	C
59.		SEAGULL SCHOOLS CHILDCARE CENTER, OAHU			
		CONSTRUCTION FOR A CHILDCARE CENTER LOCATED AT KAPOLEI ELEMENTARY SCHOOL. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		CONSTRUCTION		1,200	
		TOTAL FUNDING	EDN	1,200 C	C
60.		SOLOMON ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR CAMPUS-WIDE IMPROVEMENTS TO INCLUDE MODERNIZATION OF CLASSROOMS AND OTHER FACILITIES. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		1	
		EQUIPMENT		1	
		TOTAL FUNDING	EDN	3 C	C
			EDN	1 N	N
61.		WAIAKEA ELEMENTARY SCHOOL, HAWAII			
		PLANS, DESIGN, AND CONSTRUCTION FOR COVERING OF EXISTING PLAY COURT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		100	
		DESIGN		150	
		CONSTRUCTION		800	
		TOTAL FUNDING	EDN	1,050 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
62.		WAIAKEA HIGH SCHOOL, HAWAII			
		PLANS, DESIGN, AND CONSTRUCTION FOR A NEW BATTING CAGE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1	
		DESIGN		9	
		CONSTRUCTION		440	
		TOTAL FUNDING EDN		450 C	C
63.		WAIANAE ELEMENTARY SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW ADMINISTRATION BUILDING. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		100	
		DESIGN		400	
		CONSTRUCTION			4,500
		TOTAL FUNDING EDN		500 C	4,500 C
64.		WAIANAE HIGH SCHOOL, OAHU			
		PLANS AND DESIGN TO CONNECT TWO EXISTING SEARIDER PRODUCTIONS MEDIA BUILDINGS SP AND T. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS			100
		DESIGN			400
		TOTAL FUNDING EDN		C	500 C
65.		WAIANAE HIGH SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION TO REPLACE EXISTING WOODEN BLEACHERS WITH ALUMINUM BLEACHERS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		100	
		DESIGN		300	
		CONSTRUCTION		1,100	
		TOTAL FUNDING EDN		1,500 C	C
66.		WAIKELE ELEMENTARY SCHOOL, OAHU			
		PLANS AND DESIGN FOR LIBRARY EXPANSION AND IMPROVEMENTS FOR DIGITAL MEDIA; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS			50
		DESIGN			250
		TOTAL FUNDING EDN		C	300 C

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
67.		WAIKELE ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR EXPANSION OF EXISTING CAFETERIA TO INCLUDE A PERFORMING ARTS STAGE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		100	
		CONSTRUCTION		400	
		TOTAL FUNDING	EDN	500C	C
68.		WAIKIKI ELEMENTARY SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE INSTALLATION OF GRASS AND IRRIGATION SYSTEM FOR LEAHI FIELD; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		10	
		CONSTRUCTION		100	
		EQUIPMENT		40	
		TOTAL FUNDING	EDN	150C	C
69.		WAIMANALO ELEMENTARY AND INTERMEDIATE SCHOOL, OAHU			
		PLANS AND DESIGN FOR A SCIENCE, TECHNOLOGY AND MEDIA BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		50	
		DESIGN		350	
		TOTAL FUNDING	EDN	400C	C
70.		WAIMEA MIDDLE SCHOOL, HAWAII			
		CONSTRUCTION OF A SPECIALTY AND SUPPORT CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION		5,000	
		TOTAL FUNDING	EDN	5,000C	C
71.		WAIPAHA ELEMENTARY SCHOOL, OAHU			
		DESIGN AND CONSTRUCTION FOR NEW PARKING LOT AND REFURBISHMENT OF EXISTING PARKING AREA INTO FORMAL PLAYCOURT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		50	
		CONSTRUCTION		500	
		TOTAL FUNDING	EDN	550C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
72.		WAIPAHU HIGH SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR SYNTHETIC FIELD TURF, AN ALL WEATHER 8-LANE TRACK AND OTHER RELATED IMPROVEMENTS. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		100	
		CONSTRUCTION		5,300	
		EQUIPMENT		100	
		TOTAL FUNDING	EDN	5,500 C	C
73.		WAIPAHU HIGH SCHOOL, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A RETAINING WALL BEHIND THE SCHOOL. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		50	
		DESIGN		150	
		CONSTRUCTION		600	
		TOTAL FUNDING	EDN	800 C	C
74.		WASHINGTON MIDDLE SCHOOL, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR A NEW BAND ROOM AND RENOVATIONS TO EXISTING FACILITIES FOR HAWAIIAN STUDIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		200	
		CONSTRUCTION		800	
		EQUIPMENT		100	
		TOTAL FUNDING	EDN	1,100 C	C

EDN400 - SCHOOL SUPPORT

75.	000014	LUMP SUM CIP - PROJECT POSITIONS, STATEWIDE			
		PLANS FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT, PROJECT-FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR THE DEPARTMENT OF EDUCATION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENT PROGRAM RELATED POSITIONS.			
		PLANS		5,200	5,200
		TOTAL FUNDING	EDN	5,200 C	5,200 C

CAPITAL IMPROVEMENT PROJECTS

				APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
EDN407 - PUBLIC LIBRARIES					
76.		HEALTH AND SAFETY, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR HEALTH, SAFETY, ACCESSIBILITY, AND OTHER CODE REQUIREMENTS. PROJECTS MAY INCLUDE, BUT NOT BE LIMITED TO, THE REMOVAL OF HAZARDOUS MATERIALS, RENOVATIONS FOR LIBRARY PATRONS AND EMPLOYEES, ENVIRONMENTAL CONTROLS, FIRE PROTECTION, IMPROVEMENTS TO BUILDINGS AND GROUNDS, AND OTHERS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		200	200
		DESIGN		400	300
		CONSTRUCTION		2,399	1,499
		EQUIPMENT		1	1
		TOTAL FUNDING AGS		3,000 C	2,000 C
77.	P11104	NEW NANAKULI PUBLIC LIBRARY, OAHU			
		CONSTRUCTION FOR A NEW NANAKULI PUBLIC LIBRARY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		CONSTRUCTION		15,500	
		TOTAL FUNDING AGS		15,500 C	C
78.	92	NEW MAKIKI PUBLIC LIBRARY, OAHU			
		PLANS FOR A NEW MAKIKI PUBLIC LIBRARY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		250	
		TOTAL FUNDING AGS		250 C	C
DEF114 - HAWAII NATIONAL GUARD YOUTH CHALLENGE ACADEMY					
79.	P99035	YOUTH CHALLENGE ACADEMY UPGRADE AND IMPROVEMENTS, KEAUKAHA MILITARY RESERVATION, HAWAII			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR TWO (2) BILLETS TO HOUSE CADETS OF THE YCA PROGRAM ON THE ISLAND OF HAWAII; PROVIDE RENOVATION TO THE EXISTING ARMORY AT KEAUKAHA MILITARY RESERVATION (KMR) FOR ADMINISTRATION, CLASSROOMS, RESTROOMS, STORAGE, MULTI- PURPOSE/DINING AREA AND OTHER MISCELLANEOUS FACILITY AND INFRASTRUCTURE IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		1	
		DESIGN		50	
		CONSTRUCTION		5,799	
		EQUIPMENT		50	
		TOTAL FUNDING DEF		5,900 C	C

CAPITAL IMPROVEMENT PROJECTS

				APPROPRIATIONS (IN 000'S)	
CAPITAL PROJECT		TITLE	EXPENDING AGENCY	FISCAL M	FISCAL M
ITEM NO.	NO.			YEAR O	YEAR O
				2013-2014 F	2014-2015 F
UOH100 - UNIVERSITY OF HAWAII, MANOA					
80.		UHM, COCONUT ISLAND, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVEMENTS TO COCONUT ISLAND FOR THE HAWAII INSTITUTE OF MARINE BIOLOGY. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, INFRASTRUCTURE, EQUIPMENT AND APPURTENANCES, AND ALL RELATED PROJECT COSTS.			
		PLANS		100	
		DESIGN		300	
		CONSTRUCTION		4,900	
		EQUIPMENT		115	
		TOTAL FUNDING	UOH	5,415C	C
81.		UHM, COCONUT ISLAND, OAHU			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RENOVATIONS TO THE OLD PAULEY LABORATORY AND OTHER FACILITIES ON COCONUT ISLAND FOR THE HAWAII INSTITUTE OF MARINE BIOLOGY. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, INFRASTRUCTURE, EQUIPMENT AND APPURTENANCES, AND ALL RELATED PROJECT COSTS.			
		PLANS		200	
		DESIGN		500	
		CONSTRUCTION		5,512	
		EQUIPMENT		100	
		TOTAL FUNDING	UOH	6,312C	C
82.		UHM, RICHARDSON LAW SCHOOL, EXPANSION AND MODERNIZATION, OAHU			
		CONSTRUCTION FOR THE EXPANSION AND MODERNIZATION OF THE WEST WING OF THE WILLIAM S. RICHARDSON SCHOOL OF LAW. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, DEVELOPMENT OF NEW FACILITY, ALL PROJECT EQUIPMENT AND APPURTENANCES, AND ALL PROJECT RELATED COSTS.			
		CONSTRUCTION		7,000	
		TOTAL FUNDING	UOH	3,500C	C
			UOH	3,500E	E
83.		UHM, STUDENT HOUSING IMPROVEMENTS, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR STUDENT HOUSING IMPROVEMENTS AT THE UNIVERSITY OF HAWAII AT MANOA. PROJECT TO INCLUDE REPAIRS AND MAINTENANCE, RENOVATIONS, AND OTHER RELATED WORK.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		4,097	
		EQUIPMENT		1	
		TOTAL FUNDING	UOH	4,100B	B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
84.		UHM, SNYDER HALL, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR RENOVATIONS, UPGRADES AND IMPROVEMENTS TO SNYDER HALL. PROJECT TO INCLUDE REPAIRS AND MAINTENANCE, RENOVATIONS, AND OTHER RELATED WORK.			
		PLANS		1,000	
		DESIGN		3,000	
		CONSTRUCTION		25,000	
		EQUIPMENT		1,000	
		TOTAL FUNDING	UOH	10,000 C	C
			UOH	20,000 E	E
UOH210 - UNIVERSITY OF HAWAII, HILO					
85.		UHH OFFICE OF MAUNA KEA MANAGEMENT, HAWAII			
		DESIGN AND CONSTRUCTION FOR INFRASTRUCTURE IMPROVEMENTS AND RENOVATION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		100	
		CONSTRUCTION		1,900	
		TOTAL FUNDING	UOH	2,000 C	C
UOH700 - UNIVERSITY OF HAWAII, WEST OAHU					
86.		UNIVERSITY OF HAWAII - WEST OAHU, OAHU			
		DESIGN AND CONSTRUCTION OF ROAD B ON THE CAMPUS OF UHWO TO CONNECT TO KUALAKAI PARKWAY; PROJECT TO INCLUDE NECESSARY INTERSECTION IMPROVEMENTS. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES, AND ALL PROJECT RELATED COSTS.			
		DESIGN		350	
		CONSTRUCTION		3,150	
		TOTAL FUNDING	UOH	3,500 C	C
87.		UNIVERSITY OF HAWAII - WEST OAHU, OAHU			
		DESIGN AND CONSTRUCTION FOR THE ALLIED HEALTH BUILDING. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES, AND ALL PROJECT RELATED COSTS.			
		DESIGN		800	
		CONSTRUCTION		11,000	
		TOTAL FUNDING	UOH	11,800 C	C

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	FISCAL YEAR 2013-2014	FISCAL YEAR 2014-2015
		EXPENDING AGENCY	M O F	M O F
UOH800 - UNIVERSITY OF HAWAII, COMMUNITY COLLEGES				
88.		HAW, NORTH HAWAII EDUCATION AND RESEARCH CENTER, HAWAII		
		DESIGN AND CONSTRUCTION FOR RENOVATIONS TO NURSING AND CULINARY BUILDINGS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.		
		DESIGN	100	
		CONSTRUCTION	500	
		TOTAL FUNDING UOH	600C	C
89.		KAP, KOPIKO CLASSROOMS AND COURTYARD, PHASE II, OAHU		
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR KOPIKO CLASSROOMS AND COURTYARD, PHASE II; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.		
		DESIGN		10
		CONSTRUCTION		489
		EQUIPMENT		1
		TOTAL FUNDING UOH	C	500C
90.		LEE, NATIVE HAWAIIAN CENTER FOR EXCELLENCE, OAHU		
		DESIGN AND CONSTRUCTION FOR A NATIVE HAWAIIAN CENTER FOR EXCELLENCE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.		
		DESIGN		100
		CONSTRUCTION		1,900
		TOTAL FUNDING UOH	C	2,000C
91.		MAU, MOLOKAI EDUCATION CENTER, MOLOKAI		
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE EXPANSION, RENOVATION, REPAIR AND MAINTENANCE OF THE MOLOKAI CAMPUS OF MAUI COMMUNITY COLLEGE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.		
		DESIGN	1	
		CONSTRUCTION	2,248	
		EQUIPMENT	1	
		TOTAL FUNDING UOH	2,250C	C
92.		UNIVERSITY OF HAWAII PALAMANUI CAMPUS, PHASE I, HAWAII		
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE COMPLETION OF UNIVERSITY OF HAWAII PALAMANUI CAMPUS, PHASE I; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.		
		DESIGN	1	
		CONSTRUCTION	2,398	
		EQUIPMENT	1	
		TOTAL FUNDING UOH	2,400C	C

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
93.		SYS, MINOR CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR CAMPUSES OF THE COMMUNITY COLLEGE SYSTEM, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO UNIVERSITY OF HAWAII, COMMUNITY COLLEGE FACILITIES, STATEWIDE. PROJECTS TO INCLUDE CAPITAL RENEWAL, REDUCTION OF MAINTENANCE BACKLOG, MAJOR AND MINOR RENOVATIONS, MODERNIZATION OF FACILITIES, REROOFING, MECHANICAL AND ELECTRICAL SYSTEMS, RESURFACING, REPAINTING, AND OTHER REPAIRS AND PROJECT COSTS TO UPGRADE FACILITIES AT ALL COMMUNITY COLLEGE CAMPUSES.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		9,997	
		EQUIPMENT		1	
		TOTAL FUNDING	UOH	10,000 C	C
94.		HON-HONOLULU COMMUNITY COLLEGE - ADVANCED TECHNOLOGY AND TRAINING CENTER, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR AN ADVANCED SCIENCE AND TECHNOLOGY FACILITY FOR HONOLULU COMMUNITY COLLEGE. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, INFRASTRUCTURE, EQUIPMENT AND APPURTENANCES, AND ALL RELATED PROJECT COSTS.			
		DESIGN		1	
		CONSTRUCTION		34,395	
		EQUIPMENT		3,817	
		TOTAL FUNDING	UOH	38,213 C	C
UOH900 - UNIVERSITY OF HAWAII, SYSTEM WIDE SUPPORT					
95.	536	SYS, HEALTH, SAFETY, AND CODE REQUIREMENTS, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR MODIFICATIONS TO EXISTING FACILITIES AND/OR CONSTRUCTION OF NEW FACILITIES FOR HEALTH, SAFETY, AND CODE REQUIREMENTS. PROJECT INCLUDES GROUND AND SITE IMPROVEMENTS, STRUCTURAL RETROFITS, NEW FACILITIES, AND ALL PROJECT RELATED COSTS.			
		PLANS		1	1
		DESIGN		1	1
		CONSTRUCTION		27,998	28,998
		TOTAL FUNDING	UOH	28,000 C	29,000 C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
96.		SYS, CAPITAL RENEWAL AND DEFERRED MAINTENANCE, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO UNIVERSITY OF HAWAII FACILITIES. PROJECTS TO INCLUDE CAPITAL RENEWAL, REDUCTION OF MAINTENANCE BACKLOG, MAJOR AND MINOR RENOVATIONS, MODERNIZATION OF FACILITIES, REROOFING, MECHANICAL AND ELECTRICAL SYSTEMS, RESURFACING, REPAINTING, AND OTHER REPAIRS AND PROJECT COSTS TO UPGRADE FACILITIES AT ALL UNIVERSITY CAMPUSES.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		49,997	
		EQUIPMENT		1	
		TOTAL FUNDING UOH		50,000C	C
97.		SYS, UNIVERSITY OF HAWAII PROJECT ADJUSTMENT FUND, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A PROJECT ADJUSTMENT FUND FOR THE UNIVERSITY OF HAWAII.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		1	
		EQUIPMENT		1	
		TOTAL FUNDING UOH		4C	C

H. CULTURE AND RECREATION

LNR804 - FOREST AND OUTDOOR RECREATION

1. D01C CAMP 10 ACCESS ROAD BRIDGE, KAUAI
 PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO CAMP 10 ACCESS BRIDGES THAT CONNECT KOKEE STATE PARK TO THE NA PALI KONA FOREST RESERVE ALAKAI SWAMP AND THE ALAKAI WILDERNESS PRESERVE.

PLANS	25	
DESIGN	50	
CONSTRUCTION	425	2,300
TOTAL FUNDING LNR	500C	2,300C
2. D01F FOREST AND OUTDOOR RECREATION IMPROVEMENTS, STATEWIDE
 PLANS, DESIGN AND CONSTRUCTION FOR FOREST AND OUTDOOR RECREATION IMPROVEMENTS FOR HEALTH, SAFETY, WELFARE AND SECURITY OF PUBLIC VISITORS.

PLANS	75	
DESIGN	75	
CONSTRUCTION	1,190	2,115
TOTAL FUNDING LNR	1,340C	2,115C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
3.	D01G	PUUANAHULU SHOOTING RANGE FACILITY, HAWAII PLANS, DESIGN AND CONSTRUCTION FOR THE PUUANAHULU SHOOTING RANGE FACILITY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		100	
		DESIGN		150	
		CONSTRUCTION		2,750	10,000
		TOTAL FUNDING	LNR	750 C	2,500 C
			LNR	2,250 N	7,500 N
4.		MOANALUA GARDENS FOUNDATION, OAHU PLANS, DESIGN, AND CONSTRUCTION FOR KAMANANUI (MOANALUA) VALLEY IMPROVEMENTS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		448	
		TOTAL FUNDING	LNR	450 C	C
5.		HANALEI RIVER, KAUAI PLANS, DESIGN AND CONSTRUCTION TO REPAIR, REINFORCE AND UPGRADE THE HANALEI RIVER BREACH.			
		PLANS		1	
		DESIGN		100	
		CONSTRUCTION		899	
		TOTAL FUNDING	LNR	1,000 C	C
LNR806 - PARKS ADMINISTRATION AND OPERATION					
6.	H66	STATE PARKS HAZARD MITIGATION IMPROVEMENTS, STATEWIDE DESIGN, CONSTRUCTION AND EQUIPMENT FOR STATE PARKS HAZARD MITIGATION IMPROVEMENTS, INCLUDING NATURAL, ARBOREAL AND ANTHROPOGENIC HAZARDS.			
		DESIGN		200	
		CONSTRUCTION		2,000	3,000
		EQUIPMENT		800	800
		TOTAL FUNDING	LNR	3,000 C	3,800 C
7.	H65	LUMP SUM CIP IMPROVEMENTS AT STATE PARKS, STATEWIDE PLANS, DESIGN AND CONSTRUCTION OF STATE PARK IMPROVEMENTS, INCLUDING INFRASTRUCTURE, FACILITY SUPPORT, REGULATORY COMPLIANCE IMPROVEMENTS AND PUBLIC HEALTH AND SAFETY IMPROVEMENTS.			
		PLANS		50	
		DESIGN		900	
		CONSTRUCTION		6,550	7,500
		TOTAL FUNDING	LNR	7,500 C	7,500 C

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
8.		CENTRAL MAUI REGION SPORTS COMPLEX, MAUI			
		DESIGN AND CONSTRUCTION FOR ESTABLISHMENT OF A REGIONAL PARK IN THE AREA OF CENTRAL MAUI; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		500	
		CONSTRUCTION		4,200	
		TOTAL FUNDING	LNR	4,700 C	C
9.		MANA DRAG RACING STRIP, KAUAI			
		PLANS, DESIGN AND CONSTRUCTION TO UPGRADE AND RESURFACE MANA DRAG RACING STRIP. GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		498	500
		TOTAL FUNDING	LNR	500 C	500 C
10.		FRIENDS OF IOLANI PALACE, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR CONTINUING RENOVATIONS, REPAIRS AND RESTORATION WITHIN THE PALACE COMPLEX. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		998	
		TOTAL FUNDING	LNR	1,000 C	C
11.		GIRL SCOUTS OF HAWAII, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS FOR INFRASTRUCTURE AND FACILITIES, STATEWIDE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		100	
		DESIGN		150	
		CONSTRUCTION		1,000	
		TOTAL FUNDING	LNR	1,250 C	C
12.		LIPOA POINT, LAND ACQUISITION, MAUI			
		LAND ACQUISITION FOR THE PARCEL OF LAND, TMK 2-4-1-001-010-0000, LOCATED AT LIPOA POINT, MAUI.			
		LAND		20,000	
		TOTAL FUNDING	LNR	20,000 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
13.		PACIFIC AMERICAN FOUNDATION, OAHU			
		PLANS, DESIGN AND CONSTRUCTION FOR A NEW FACILITY FOR EDUCATION, RESEARCH AND EMPLOYMENT PROGRAMS IN KANEOHE, OAHU. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		PLANS		100	
		DESIGN		200	
		CONSTRUCTION		700	
		TOTAL FUNDING	LNR	1,000 C	C
LNR801 - OCEAN-BASED RECREATION					
14.	B99C	MARINE DEBRIS MITIGATION, STATEWIDE			
		CONSTRUCTION FOR THE REMOVAL OF MARINE DEBRIS FROM STATE WATERS AND SHORELINES.			
		CONSTRUCTION		2,000	
		TOTAL FUNDING	LNR	2,000 C	C
15.	B99	LUMP SUM IMPROVEMENTS AT BOATING AND OCEAN RECREATION FACILITIES, STATEWIDE			
		PLANS, DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AT VARIOUS BOATING FACILITIES TO INCLUDE PIERS, LOADING DOCKS, UTILITIES, BOAT RAMPS, RESTROOMS, PARKING AREAS, STRUCTURES, DREDGING, SEWER SYSTEMS, BUILDING, FENCING, RENDERING, MOORINGS, LANDSCAPING AND OTHER RELATED WORK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		1	1
		DESIGN		1	1
		CONSTRUCTION		12,896	7,661
		TOTAL FUNDING	LNR	11,510 C	6,050 C
			LNR	825 N	750 N
			LNR	563 P	863 P
16.	B95A	KIKIAOLA SMALL BOAT HARBOR FEDERAL PROJECT, KAUAI			
		CONSTRUCTION TO PROVIDE STATE MATCHING FUNDS FOR THE FEDERAL NAVIGATIONAL IMPROVEMENTS PROJECT AT KIKIAOLA SMALL BOAT HARBOR.			
		CONSTRUCTION		2,450	
		TOTAL FUNDING	LNR	2,450 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F

AGS889 - SPECTATOR EVENTS AND SHOWS - ALOHA STADIUM

17. Q104 LUMP SUM HEALTH AND SAFETY, ALOHA STADIUM, OAHU

PLANS, DESIGN AND CONSTRUCTION FOR THE MITIGATION/ELIMINATION OF CONDITIONS THAT ARE HAZARDOUS TO HEALTH AND SAFETY, INCLUDING REPAIRS, ALTERATIONS, AND IMPROVEMENTS TO THE ALOHA STADIUM TO MEET CODE, SAFETY, AND/OR OPERATIONAL REQUIREMENTS.

PLANS	1	1
DESIGN	999	1,199
CONSTRUCTION	9,000	8,800
TOTAL FUNDING AGS	10,000 C	10,000 C

I. PUBLIC SAFETY

PSD900 - GENERAL ADMINISTRATION

1. P20130 GENERAL ADMINISTRATION, PSD, LUMP SUM CIP, STATEWIDE

PLANS, LAND ACQUISITION, DESIGN AND CONSTRUCTION FOR NEW, ADDITIONS, RENOVATIONS, ALTERATIONS AND IMPROVEMENTS TO BUILDINGS, SITES AND UTILITIES AT FACILITIES, STATEWIDE.

PLANS	1	1
LAND	1	1
DESIGN	1	1
CONSTRUCTION	15,997	15,997
TOTAL FUNDING AGS	16,000 C	16,000 C

LNR810 - PREVENTION OF NATURAL DISASTERS

2. 13 GENERAL FLOOD CONTROL PLAN UPDATE, STATEWIDE

PLANS FOR GENERAL FLOOD CONTROL PLAN UPDATE TO RESEARCH AND INVENTORY FLOOD DATA AND INCORPORATION INTO NEWLY DEVELOPED GENERAL FLOOD CONTROL PLAN WEB APPLICATION.

PLANS	570	
TOTAL FUNDING LNR	570 C	C

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	FISCAL YEAR 2013-2014	FISCAL YEAR 2014-2015
			M O F	M O F
DEF110 - AMELIORATION OF PHYSICAL DISASTERS				
3.	A0201	RETROFIT PUBLIC BUILDINGS WITH HURRICANE PROTECTIVE MEASURES, STATEWIDE		
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT TO RETROFIT PUBLIC BUILDINGS WITH HURRICANE PROTECTIVE MEASURES AND INCREASE THE NUMBER OF PUBLIC SHELTERS STATEWIDE.		
		PLANS	1	1
		LAND	1	1
		DESIGN	200	200
		CONSTRUCTION	550	550
		EQUIPMENT	1,248	1,248
		TOTAL FUNDING DEF	2,000C	2,000C
4.	A40	DISASTER WARNING AND COMMUNICATION DEVICES, STATEWIDE		
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE INCREMENTAL ADDITION, REPLACEMENT AND UPGRADE OF STATE CIVIL DEFENSE WARNING AND COMMUNICATIONS EQUIPMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.		
		PLANS	1	1
		LAND	1	1
		DESIGN	30	30
		CONSTRUCTION	2,034	2,034
		EQUIPMENT	434	434
		TOTAL FUNDING DEF	2,400C	2,400C
		DEF	100N	100N
5.	P98134	UPGRADE AND IMPROVEMENTS TO NATIONAL GUARD FACILITIES, STATEWIDE		
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AND UPGRADES TO NATIONAL GUARD ARMORIES TO CONFORM TO CURRENT NATIONAL GUARD BUREAU STANDARDS AND CRITERIA, AND TO MEET UNANTICIPATED HEALTH, SAFETY, AND BUILDING CODE REQUIREMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.		
		DESIGN	700	
		CONSTRUCTION	11,900	
		TOTAL FUNDING DEF	2,050C	C
		DEF	10,550N	N

CAPITAL IMPROVEMENT PROJECTS

			APPROPRIATIONS (IN 000'S)		
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
6.	AR1401	ARMY AVIATION SUPPORT FACILITY (AASF),KALAELOA, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR A NEW ARMY AVIATION SUPPORT FACILITY AT KALAELOA, OAHU. THE FACILITY WILL BE BUILT TO NATIONAL GUARD STANDARDS AND WILL MEET LEED SILVER LEVEL. THIS PROJECT IS NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.			
		PLANS		1	
		DESIGN		256	
		CONSTRUCTION		30,036	
		EQUIPMENT		25	901
		TOTAL FUNDING	DEF	4,536 C	C
			DEF	25,782 N	901 N
7.		TRANSPACIFIC LANDING STATIONS, BROADBAND INFRASTRUCTURE DEPLOYMENT, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT, TO PROVIDE SUBMARINE TRANS-PACIFIC CABLE LANDING STATIONS, INFRASTRUCTURE IMPROVEMENTS, AND BROADBAND INFRASTRUCTURE DEPLOYMENT IMPROVEMENTS, STATEWIDE.			
		PLANS		1	
		LAND		1	
		DESIGN		1	
		CONSTRUCTION		19,996	
		EQUIPMENT		1	
		TOTAL FUNDING	DEF	20,000 C	C
K. GOVERNMENT-WIDE SUPPORT					
GOV100 - OFFICE OF THE GOVERNOR					
1.	G01	PROJECT ADJUSTMENT FUND, STATEWIDE			
		PLANS FOR THE ESTABLISHMENT OF A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT.			
		PLANS		1	1
		TOTAL FUNDING	GOV	1 C	1 C
BUF101 - DEPARTMENTAL ADMINISTRATION AND BUDGET DIVISION					
2.	00-01	HAWAIIAN HOMELANDS TRUST FUND, STATEWIDE			
		CONSTRUCTION TO AUTHORIZE THE TRANSFER OF GENERAL OBLIGATION BOND FUNDS TO THE HAWAIIAN HOMELANDS TRUST FUND TO SATISFY THE PROVISIONS OF ACT 14, SPSLH 1995.			
		CONSTRUCTION		30,000	10,000
		TOTAL FUNDING	BUF	30,000 C	10,000 C

CAPITAL IMPROVEMENT PROJECTS

				APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
3.	00-02	STATE EDUCATIONAL FACILITIES IMPROVEMENT FUND, STATEWIDE			
		CONSTRUCTION TO AUTHORIZE THE TRANSFER OF GENERAL OBLIGATION BOND FUNDS AND RE-AUTHORIZATION TO THE STATE EDUCATIONAL FACILITIES IMPROVEMENT SPECIAL FUND.			
		CONSTRUCTION		53,000	
		TOTAL FUNDING	BUF	53,000	C

TAX107 - SUPPORTING SERVICES - REVENUE COLLECTION

4.	3	TAX SYSTEM MODERNIZATION (TSM), STATEWIDE			
		DESIGN AND CONSTRUCTION OF A CORE COMPUTER SYSTEM WHICH WILL BE A REPLACEMENT FOR THE CURRENT TAX SYSTEM.			
		DESIGN		16,000	1
		CONSTRUCTION		1	16,000
		TOTAL FUNDING TAX		16,001C	16,001C

AGS131 - INFORMATION PROCESSING AND COMMUNICATIONS SERVICES

5.	Q102	LUMP SUM HEALTH AND SAFETY, INFORMATION AND COMMUNICATION SERVICES DIVISION, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR REPAIRS, MODERNIZATION, AND EXPANSION OF CRITICAL COMMUNICATIONS SYSTEMS, INCLUDING THE STATEWIDE ANUENUE AND HAWAIIAN MICROWAVE SYSTEMS AND LAND MOBILE RADIO, STATEWIDE SHARED BLENDED RADIO SYSTEM, AND NEW RADIO SITES AND TOWERS STATEWIDE.			
		PLANS		149	149
		LAND		1	1
		DESIGN		680	400
		CONSTRUCTION		6,320	3,800
		EQUIPMENT		2,100	2,000
		TOTAL FUNDING AGS		9,250C	6,350C

AGS130 - INFORMATION MANAGEMENT AND TECHNOLOGY SERVICES

6.	U101A	ENTERPRISE RESOURCE PLANNING (ERP), STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR DEVELOPMENT OF AN ENTERPRISE RESOURCE MANAGEMENT SYSTEM FOR THE STATE OF HAWAII.			
		PLANS		2,000	2,000
		DESIGN		5,000	5,000
		CONSTRUCTION		16,999	16,999
		EQUIPMENT		1	1
		TOTAL FUNDING AGS		24,000C	24,000C

CAPITAL IMPROVEMENT PROJECTS

				APPROPRIATIONS (IN 000'S)	
ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	FISCAL M	FISCAL M
				YEAR O	YEAR O
				2013-2014 F	2014-2015 F
7.	U102	ENTERPRISE IT INFRASTRUCTURE, STATEWIDE			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR IT INFRASTRUCTURE, INCLUDING DATA/SHARED SERVICE CENTERS AND NETWORKS FOR THE STATE OF HAWAII.			
		PLANS		500	500
		DESIGN		1,500	1,500
		CONSTRUCTION		1,000	1,000
		EQUIPMENT		3,000	3,000
		TOTAL FUNDING	AGS	6,000C	6,000C

LNR101 - PUBLIC LANDS MANAGEMENT

8.	E00C	ROYAL HAWAIIAN GROIN REPLACEMENT, OAHU			
		PLANS, DESIGN AND CONSTRUCTION TO REPLACE THE ROYAL HAWAIIAN GROIN WITH A NEW GROIN STRUCTURE. NEW GROIN TO SERVE SAME PURPOSE AS OLD GROIN TO RETAIN SAND ON WAIKIKI BEACH.			
		PLANS		200	
		DESIGN		100	
		CONSTRUCTION			1,000
		TOTAL FUNDING	LNR	150C	500C
			LNR	150R	500R

AGS221 - PUBLIC WORKS - PLANNING, DESIGN, AND CONSTRUCTION

9.	E109	CAPITAL IMPROVEMENT PROGRAM STAFF COSTS, STATEWIDE			
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT, PROJECT-FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES. PROJECTS MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT AND EXEMPT FROM CHAPTER 76 CAPITAL IMPROVEMENTS PROGRAM RELATED POSITIONS.			
		PLANS		7,361	7,361
		LAND		1	1
		DESIGN		1	1
		CONSTRUCTION		1	1
		EQUIPMENT		1	1
		TOTAL FUNDING	AGS	7,365C	7,365C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
10.	Q101	LUMP SUM MAINTENANCE OF EXISTING FACILITIES, PUBLIC WORKS DIVISION, STATEWIDE PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION AND EQUIPMENT FOR IMPROVEMENTS AND MAINTENANCE OF PUBLIC FACILITIES AND SITES, STATEWIDE. PROJECTS MAY INCLUDE REPAIRS AND IMPROVEMENTS.			
		PLANS		100	100
		LAND		1	1
		DESIGN		1,390	1,300
		CONSTRUCTION		13,400	14,608
		EQUIPMENT		9	9
		TOTAL FUNDING AGS		14,900C	16,018C
11.	T105	LUMP SUM ADVANCE PLANNING, STATEWIDE PLANS FOR THE DEVELOPMENT AND IMPLEMENTATION OF STATEWIDE SPACE NEEDS AND BUILDING ASSET MANAGEMENT PROGRAMS TO MORE EFFECTIVELY PLAN FOR STATE OCCUPIED FACILITIES. TARGET AREAS INCLUDE WORKFORCE SPACE NEEDS PLANNING, CIVIC CENTER MASTER PLAN DEVELOPMENT, AND STATE OFFICE BUILDING ASSET MANAGEMENT AND DEVELOPMENT.			
		PLANS		1,000	1,000
		TOTAL FUNDING AGS		1,000C	1,000C
12.	V104	LUMP SUM STATE OFFICE BUILDING REMODELING, STATEWIDE PLANS, DESIGN AND CONSTRUCTION FOR REMODELING AND UPGRADE OF STATE-OWNED OFFICES, OCCUPIED BY STATE AGENCIES TO ACCOMMODATE AGENCIES OPERATIONAL REQUIREMENTS. PROJECT INCLUDES RENOVATION FOR REORGANIZATION, PROGRAM CHANGES, AND STAFFING CHANGES, AS WELL AS CORRECTION OF INEFFICIENT OFFICE LAYOUTS, ENERGY CONSERVATION, LIGHTING, VENTILATION, PLUMBING, ELECTRICAL, AND DATA/ COMMUNICATIONS SYSTEMS.			
		PLANS		1	
		DESIGN		99	
		CONSTRUCTION		900	
		TOTAL FUNDING AGS		1,000C	C
13.	V101	STATE CAPITOL BUILDING, REPLACE AND RECONSTRUCT FIFTH FLOOR FAÇADE, OAHU DESIGN AND CONSTRUCTION TO REPLACE PRE-CAST CONCRETE MULLIONS, SILL PANELS AND WINDOWS, ROOF DECK WATERPROOFING, AND RELATED IMPROVEMENTS AT THE STATE CAPITOL BUILDING.			
		DESIGN		1,000	
		CONSTRUCTION		8,000	
		TOTAL FUNDING AGS		9,000C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
14.	T102	STATE CAPITOL, REPLACE UPPER ROOF, OAHU			
		DESIGN AND CONSTRUCTION TO REPLACE AND UPGRADE THE UPPER ROOF AT THE STATE CAPITOL BUILDING.			
		DESIGN		265	
		CONSTRUCTION			4,134
		TOTAL FUNDING	AGS	265 C	4,134 C
15.	P104	WASHINGTON PLACE, HEALTH AND SAFETY AND QUEEN'S GALLERY RENOVATION, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT TO ADDRESS IMMEDIATE HEALTH AND SAFETY NEEDS AT WASHINGTON PLACE. PROJECT INCLUDES LEAD BASED PAINT ABATEMENT/ENCAPSULATION, BUILDING CODE REQUIREMENTS (STRUCTURAL, ELECTRICAL, PLUMBING AND VENTILATION), AND ADAAG REQUIREMENTS. ASSOCIATED TO THE WORK IS RENOVATION FOR BUILDING PRESERVATION WITH THE RETENTION OF EXISTING HISTORIC MATERIAL.			
		PLANS		1	
		DESIGN		1	
		CONSTRUCTION		649	500
		EQUIPMENT		1	
		TOTAL FUNDING	AGS	652 C	500 C
16.		BISHOP MUSEUM, ENERGY IMPROVEMENTS, OAHU			
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR ENERGY IMPROVEMENTS AT BISHOP MUSEUM. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42F, HRS.			
		DESIGN		1	
		CONSTRUCTION		1,998	
		EQUIPMENT		1	
		TOTAL FUNDING	AGS	2,000 C	C
SUB201 - CITY AND COUNTY OF HONOLULU					
17.		HAMAKUA MARSH AND KAELEPULU AND KAWAINUI STREAMS, OAHU			
		DESIGN AND CONSTRUCTION FOR MANGROVE ERADICATION; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.			
		DESIGN		20	
		CONSTRUCTION		780	
		TOTAL FUNDING	CCH	800 C	C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000'S)	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
18.		CENTRAL OAHU AMBULANCE FACILITY, OAHU			
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR AN AMBULANCE FACILITY FOR CENTRAL OAHU LOCATED ON TMK: 9-4-122-103.			
		PLANS		100	
		DESIGN		500	
		CONSTRUCTION		3,249	
		EQUIPMENT		1	
		TOTAL FUNDING	CCH	3,850	C
SUB301 - COUNTY OF HAWAII					
19.		WAIMEA DISTRICT/REGIONAL PARK, HAWAII			
		PLANS, DESIGN AND CONSTRUCTION FOR WAIMEA DISTRICT/REGIONAL PARK, PHASE I, FOR A ONE-TO-ONE MATCH OF COUNTY FUNDS.			
		PLANS		1,000	
		DESIGN		1,000	
		CONSTRUCTION		3,000	
		TOTAL FUNDING	COH	2,500	C
			COH	2,500	S
SUB501 - COUNTY OF KAUAI					
20.		KILAUEA SCHOOL WATERLINE IMPROVEMENTS, KAUAI			
		PLANS, DESIGN AND CONSTRUCTION TO REPAIR, UPGRADE AND INSTALL WATERLINES FOR FIRE PROTECTION SPRINKLERS AT KILAUEA SCHOOL.			
		PLANS		50	
		DESIGN		100	
		CONSTRUCTION		1,150	
		TOTAL FUNDING	COK	1,300	C
21.		HAWAIIAN ISLAND LAND TRUST, KAUAI			
		PLANS, LAND ACQUISITION, AND DESIGN FOR A LONG RANGE DEVELOPMENT PLAN FOR THE FORMER COCONUT PALMS SITE.			
		PLANS		50	
		LAND		170	
		DESIGN		50	
		TOTAL FUNDING	COK	270	C

PART V. CAPITAL IMPROVEMENT PROGRAM PROVISIONS

SECTION 40. Provided that of the revenue bond appropriation for the department of agriculture, the sum of \$175,000,000 or so much thereof as may be necessary for fiscal year 2013-2014 shall be expended by the agribusiness development corporation (AGR 161), pursuant to section 163D-31, Hawaii Revised Statutes, for land acquisition for the following TMKs on Oahu:

7-4-012-016, 6-1-02-01, 6-1-02-23, 6-1-02-24, 6-2-02-02, 6-2-02-04,
 6-2-02-23, 6-2-05-02, 6-2-05-35, 6-2-06-01, 6-2-06-06, 6-2-07-02, 6-2-07-04,
 6-2-07-07, 6-2-07-08, 6-2-07-11, 6-2-08-01, 6-2-08-04, 6-2-08-05, 6-2-08-06,
 6-2-08-08, 6-2-08-09, 6-2-08-10, 6-2-08-11, 6-2-08-16, 6-2-08-19, 6-2-10-02,
 6-2-10-03, 6-2-10-04, 6-2-10-06, 6-2-10-10, 6-2-10-11, 6-2-10-12, 6-2-11-02,
 6-2-11-03, 6-2-11-04, 6-2-11-05, 6-2-11-06, 6-2-11-07, 6-2-11-08, 6-2-11-09,
 6-2-11-10, 6-2-11-13, 6-2-11-16, 6-2-11-17, 6-2-11-18, 6-2-11-19, 6-2-11-20,
 6-3-01-02, 6-3-01-03, 6-3-01-05, 6-4-01-01, 6-4-01-04, 6-4-01-05, 6-4-01-12,
 6-4-02-01, 6-4-03-01, 6-4-03-03, 6-4-04-01, 6-4-04-06, 6-4-04-08, 6-5-01-14,
 6-5-01-44, 6-5-01-45, 6-5-01-46, 6-5-02-01, 6-5-02-05, 6-5-02-06, 6-5-02-07,
 6-5-02-08, 6-5-02-11, 6-5-02-18, 6-5-02-19, 6-5-02-23, 6-5-05-02, 6-5-05-03,
 6-5-05-04, 6-6-10-10, 6-6-12-01, 6-6-14-04, 6-6-22-01, 6-6-23-03, 6-6-24-01,
 6-6-25-01, 6-6-25-02, 6-6-25-06, 6-6-27-08, 6-6-27-09, 6-6-27-10, 6-7-01-05,
 6-7-01-08, 6-7-01-26, 6-7-01-30, 6-7-01-34, 6-7-01-37, 6-7-01-63, 6-7-02-04,
 6-7-02-14, 6-7-02-35, 6-7-02-36, 6-7-02-46, 6-7-03-02, 6-7-03-05, 6-7-03-06,
 6-7-03-07, 6-7-03-09, 6-7-03-10, 6-7-03-11, 6-7-03-17, 6-7-04-01, 6-7-04-04,
 6-7-09-03, 6-7-13-07, 6-8-02-05, 6-8-03-09, 6-8-06-17, 6-8-07-05, 7-1-02-04,
 7-1-02-06, 7-1-02-23, 7-1-02-34, 7-1-02-35, 7-1-02-36, 7-2-01-03.

SECTION 41. Provided that of the general obligation fund appropriation for Hawaii health systems corporation regions (HTH212), the sum of \$40,000,000 or so much thereof as may be necessary for the fiscal year 2013-2014 shall be expended by the department of health for repair and maintenance projects, including those to correct health and safety deficiencies; provided further that of that total sum:

- (1) \$6,000,000 shall be used for improvements to the imaging, laboratory and oncology department, to include equipment upgrades at Maui memorial medical center;
- (2) \$280,000 shall be used for re-roofing at Lana'i hospital;
- (3) \$1,000,000 shall be used for the development of a master plan for the Leahi hospital complex;
- (4) \$4,000,000 shall be used for renovations and upgrades at Kona community hospital; and
- (5) \$1,000,000 shall be used for renovations and upgrades at Kohala community hospital.

SECTION 42. Provided that of the general obligation fund appropriation for capital renewal and deferred maintenance to the University of Hawaii facilities, the sum of \$4,500,000 or so much thereof as may be necessary for fiscal years 2013-2014 shall be expended by the University of Hawaii as follows:

- (1) \$4,000,000 shall be used for design and construction of renovations and repurposing of Klum Gym into a new multi-purpose facility;
- (2) \$500,000 shall be used for design and construction for repair and replacement of mondo track at Clarence T.C. Ching Complex.

SECTION 43. Provided that of the general obligation fund appropriation for public works division (AGS 221), the sum of \$2,018,000 or so much thereof as may be necessary for fiscal year 2014-2015 shall be expended by the department of accounting and general services for replacement, improvement, and upgrades of the fire alarm and public address system at the state capitol building.

SECTION 44. Any law to the contrary notwithstanding, the appropriations under Act 296, Session Laws of Hawaii 1991, section 165, as amended and

renumbered by Act 300, Session Laws of Hawaii 1992, section 6, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>"Item No.</u>	<u>Amount (MOF)</u>
C-53	\$43,271 N"

SECTION 45. Any law to the contrary notwithstanding, the appropriations under Act 317, Session Laws of Hawaii 1991, section 2, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>"Item No.</u>	<u>Amount (MOF)</u>
C-09	\$19,967 N"

SECTION 46. Any law to the contrary notwithstanding, the appropriations under Act 289, Session Laws of Hawaii 1993, section 127, as amended and renumbered by Act 252, Session Laws of Hawaii 1994, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>"Item No.</u>	<u>Amount (MOF)</u>
C-40	\$ 17,005 E
C-41	917,188 E
C-43	148,205 N
C-59E	41,826 E
C-59E	26,757 N
C-59F	242,744 N
C-59L	18,430 N
C-69	4,420 E
C-76	16,379 N"

SECTION 47. Any law to the contrary notwithstanding, the appropriations under Act 218, Session Laws of Hawaii 1995, section 99, as amended and renumbered by Act 287, Session Laws of Hawaii 1996, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>"Item No.</u>	<u>Amount (MOF)</u>
C-28	\$ 10,000 E
C-48	430,719 N
C-48	57,282 R
C-49G	6 E
C-49I	27,094 E
C-49I	65,631 N
C-69	22,046 E
C-69	34,243 N
C-74	21,904 E
C-76	19,920 E
C-76	91,025 N
C-82	1,016,389 N
C-83	13,282 E
C-83	397,126 N"

SECTION 48. Any law to the contrary notwithstanding, the appropriations under Act 328, Session Laws of Hawaii 1997, section 140A, as amended

and renumbered by Act 116, Session Laws of Hawaii 1998, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>"Item No.</u>	<u>Amount (MOF)</u>
C-115	\$160,101 N
C-123	75,476 E
C-144	634,081 N
C-144	768,035 R
C-161	7,746 E"

SECTION 49. Any law to the contrary notwithstanding, the appropriations under Act 200, Session Laws of Hawaii 2003, section 77, as amended and renumbered by Act 41, Session Laws of Hawaii 2004, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>"Item No.</u>	<u>Amount (MOF)</u>
C-90	\$9,681,452 B"

SECTION 50. Any law to the contrary notwithstanding, the appropriations under Act 213, Session Laws of Hawaii 2007, section 125, as amended and renumbered by Act 158, Session Laws of Hawaii 2008, section 125¹, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>"Item No.</u>	<u>Amount (MOF)</u>
G-117.06	\$2,320,386 C"

SECTION 51. Any law to the contrary notwithstanding, the appropriations under Act 164, Session Laws of Hawaii 2011, section 36, as amended and renumbered by Act 106, Session Laws of Hawaii 2012, section 36¹, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>"Item No.</u>	<u>Amount (MOF)</u>
G-92.03	\$12,429,000 C"

SECTION 52. Any law to the contrary notwithstanding, the appropriations under Act 164, Session Laws of Hawaii 2011, section 36, as amended and renumbered by Act 106, Session Laws of Hawaii 2012, section 5, in the amounts indicated or balances thereof, unallotted, allotted, unencumbered, or encumbered and unrequired, are hereby lapsed:

<u>"Item No.</u>	<u>Amount (MOF)</u>
C-12	\$ 900,000 E
C-12	8,550,000 N
G-76	300 C"

SECTION 53. Act 178, Session Laws of Hawaii 2005, section 85, as amended by Act 160, Session Laws of Hawaii 2006, section 5, is amended by amending Item C-140 to read as follows:

"X128 KUHIO HIGHWAY, REHABILITATION
AND/OR REPLACEMENT OF WAIOLI, WAIPA,
AND WAIKOKO STREAM BRIDGES, KAUAI

LAND ACQUISITION AND DESIGN FOR THE
REHABILITATION AND/OR REPLACEMENT
OF WAIOLI STREAM BRIDGE, WAIPA
STREAM BRIDGE, AND WAIKOKO STREAM
BRIDGE ON KUHIO HIGHWAY ROUTE 560.
THIS PROJECT IS DEEMED NECESSARY TO
QUALIFY FOR FEDERAL AID FINANCING
AND/OR REIMBURSEMENT.

LAND			650
DESIGN		1,750	
TOTAL FUNDING	TRN	350 E	130 E
	TRN	1,400 N	520 N"

SECTION 54. Act 164, Session Laws of Hawaii 2011, section 36, as amended by Act 106, Session Laws of Hawaii 2012, section 5, is amended as follows:

- (1) By amending Item C-94 to read as follows:

"X128 KUHIO HIGHWAY, REHABILITATION
AND/OR REPLACEMENT OF WAIOLI, WAIPA,
AND WAIKOKO STREAM BRIDGES, KAUAI

LAND ACQUISITION FOR THE
REHABILITATION AND/OR REPLACEMENT
OF WAIOLI STREAM BRIDGE, WAIPA
STREAM BRIDGE, AND WAIKOKO STREAM
BRIDGE ON KUHIO HIGHWAY, ROUTE 560.
THIS PROJECT IS DEEMED NECESSARY TO
QUALIFY FOR FEDERAL AID FINANCING
AND/OR REIMBURSEMENT.

LAND			250
TOTAL FUNDING	TRN	E	50 E
	TRN	N	200 N"

- (2) By amending Item C-52 to read as follows:

"S346 INTERSTATE ROUTE H-1, KAPALAMA
CANAL BRIDGE REHABILITATION AND/OR
REPLACEMENT, OAHU

DESIGN FOR THE REHABILITATION AND/
OR REPLACEMENT OF KAPALAMA CANAL
(OLOMEA STREET) BRIDGE. THIS PROJECT
IS DEEMED NECESSARY TO QUALIFY
FOR FEDERAL AID FINANCING AND/OR
REIMBURSEMENT.

DESIGN		800	
TOTAL FUNDING	TRN	160 E	E
	TRN	640 N	N"

- (3) By amending Item G-29 to read:

"P111050¹ ILIAHI ELEMENTARY SCHOOL,
OAHU

DESIGN AND CONSTRUCTION FOR
[INSTALLATION OF COVERING FOR] NEW
COVERED PLAY COURT.¹ GROUND AND
SITE IMPROVEMENTS; EQUIPMENT AND
APPURTENANCES.

DESIGN		1	
CONSTRUCTION		1499	
TOTAL FUNDING	EDN	1500 B	B"

- (4) By amending Item B-1 to read:

"PACIFIC GATEWAY CENTER, OAHU

PLANS, DESIGN AND CONSTRUCTION TO
CONSTRUCT ~~[THE KE-EEH]~~ A COMMUNITY
RESOURCE CENTER. THIS PROJECT
QUALIFIES AS A GRANT, PURSUANT TO
CHAPTER 42F, HRS.

PLANS	1	
DESIGN	1	
CONSTRUCTION	998	
TOTAL FUNDING	1000 C	C"

SECTION 55. Act 164, Session Laws of Hawaii 2011, section 50 is amended as follows:

"Provided that of the general obligation fund appropriation for plans, design, construction and equipment for improvements to the University of Hawaii facilities, the sum of \$5,760,000 or so much thereof as may be necessary for fiscal year 2011-2012 shall be expended by the University of Hawaii as follows:

- (1) \$960,000 shall be used for design and construction of improvements to the entrance of the basketball offices;
- (2) \$300,000 shall be used for design and construction of two additional sand volleyball courts;
- (3) \$1,200,000 shall be used for design and construction of sun and rain covering for the tennis courts;
- (4) \$900,000 shall be used for design and construction of sun and rain covering for the diving portion of the swimming complex;
- (5) \$2,400,000 shall be used for design and construction for renovation of the softball stadium, phase 2; and
- (6) \$600,000 shall be used for plans and design for renovations to the nursing and culinary wing at the north Hawaii education and research center, Hawaii; provided that no funds from this program ID shall be expended for this project unless all funding necessary for the completion of the project, including funding for construction and equipment, in their entirety, have been secured."

SECTION 56. Act 106, Session Laws of Hawaii 2012, Section 36,¹ is amended as follows:

- (1) By amending Item A-12.02 to read:

"GALBRAITH LANDS IRRIGATION SYSTEM
AT LAKE WILSON, OAHU

PLANS AND DESIGN FOR AN IRRIGATION
SYSTEM, INCLUDING RESERVOIR, ~~[FO PUMP-
WATER OUT OF THE NORTH FORK OF
KAOKONAHUA STREAM]~~ TO IRRIGATE THE
~~[1,732 ACRES OF]~~ GALBRAITH LANDS.

PLANS	1	
DESIGN	749	
TOTAL FUNDING	AGR	C
	750 C"	

- (2) By amending Item K-17.01 to read:

"WAR MEMORIAL ~~[GYMNASIUM]~~
STADIUM,² MAUI

PLANS, DESIGN AND CONSTRUCTION FOR
~~[AIR CONDITIONING]~~ IMPROVEMENTS AND
UPGRADE FOR STADIUM FIELD COMPLEX;
GROUND AND SITE IMPROVEMENTS;
EQUIPMENT AND APPURTENANCES.

PLANS	1	
DESIGN	1	
CONSTRUCTION	918	
TOTAL FUNDING	COM	C
	920 C"	

SECTION 57. Any law to the contrary notwithstanding, the non-general fund appropriations for capital improvement projects under Act 213, Session Laws of Hawaii 2007, section 125, as amended and renumbered by Act 158, Session Laws of Hawaii 2008, section 5, and all prior General Appropriation Acts as amended, for projects that have been deemed necessary to qualify for federal aid financing and/or reimbursement and are unencumbered as of June 30, 2014, shall lapse as of that date.

SECTION 58. Any law to the contrary notwithstanding, the non-general fund appropriations for capital improvement projects under Act 162, Session Laws of Hawaii 2009, section 62, as amended and renumbered by Act 180, Session Laws of Hawaii 2010, section 5, for projects that have been deemed necessary to qualify for federal aid financing and/or reimbursement and are unencumbered as of June 30, 2016, shall lapse as of that date.

SECTION 59. Any law to the contrary notwithstanding, the non-general fund appropriations for capital improvement projects under Act 164, Session Laws of Hawaii 2011, section 36, as amended and renumbered by Act 106, Session Laws of Hawaii 2012, section 5, for projects that have been deemed necessary to qualify for federal aid financing and/or reimbursement and are unencumbered as of June 30, 2018 shall lapse as of that date.

PART VI. ISSUANCE OF BONDS

SECTION 60. AGRIBUSINESS DEVELOPMENT CORPORATION REVENUE BONDS. The department of agriculture, agribusiness development corporation, with the approval of the governor, is authorized to issue revenue bonds pursuant to part III of chapter 39, Hawaii Revised Statutes, except as provided in chapter 163D, Hawaii Revised Statutes, in an aggregate principal amount not to exceed \$175,000,000, to acquire certain agricultural lands located on the island of Oahu.

SECTION 61. AIRPORT REVENUE BONDS. The department of transportation may issue airport revenue bonds for airport capital improvement program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond funds with debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital improvements program projects, and, if so determined by the department and approved by the governor, any additional principal amount as may be necessary by the department to pay interest on such airport revenue bonds during the estimated period of construction of the capital improvements program project for which such airport revenue bonds are issued, to establish, maintain, or increase reserves for the airport revenue bonds and to pay the expenses of issuance of such bonds. The airport revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal of and interest on airport revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenues from airports and related facilities under the ownership of the State or operated and managed by the department and the aviation fuel taxes levied and paid pursuant to sections 243-4(a)(2) and 248-8, Hawaii Revised Statutes, or such parts of either thereof as the department may determine, including rents, landing fees, and other fees or charges presently or hereafter derived from or arising through the ownership, operation, and management of airports and

related facilities and the furnishing and supplying of the services thereof, and passenger facility charges pursuant to section 261-5.5, Hawaii Revised Statutes, as amended, and as determined by the department. The expenses of the issuance of such airport revenue bonds, to the extent not paid from the proceeds of such bonds, shall be paid from the airport revenue fund and passenger facility charge special fund as determined by the department.

The governor, in the governor's discretion, may use the airport revenue fund and passenger facility charge special fund to finance those projects authorized in part II and listed in part IV of this Act where the method of financing is designated to be by airport revenue bond funds; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 62. RENTAL MOTOR VEHICLE CUSTOMER FACILITY REVENUE BONDS. The department of transportation may issue rental motor vehicle customer facility revenue bonds for airport capital improvement program projects relating to consolidated rental car facilities authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds with debt service cost to be paid from the rental motor vehicle customer facility charge special funds, as authorized by section 261-5.6, Hawaii Revised Statutes, in such principal amount as shall be required to yield the amounts appropriated for such capital improvements program projects, and, if so determined by the department and approved by the governor, any additional principal amount as may be necessary by the department to pay interest on the rental motor vehicle customer facility revenue bonds during the estimated period of construction of the capital improvements program project for which the rental motor vehicle customer facility revenue bonds are issued, to establish, maintain, or increase reserves for the rental motor vehicle customer facility revenue bonds and to pay the expenses of issuance of the bonds. The rental motor vehicle customer facility revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal of and interest on rental motor vehicle customer facility revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenues from the rental motor vehicle surcharge tax and the rental motor vehicle customer facility charge special fund pursuant to section 261-5.6, Hawaii Revised Statutes, as amended, and as determined by the department. The expenses of the issuance of such rental motor vehicle customer facility revenue bonds, to the extent not paid from the proceeds of such bonds, shall be paid from the rental motor vehicle customer facility charge special fund as determined by the department.

The governor, in the governor's discretion, may use the rental motor vehicle customer facility charge special fund to finance those projects authorized in part II and listed in part IV of this Act where the method of financing is designated to be by rental motor vehicle customer facility revenue bond funds; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 63. HARBOR REVENUE BONDS. The department of transportation may issue harbor revenue bonds for harbor capital improvement program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond funds

with debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital improvement program projects, and, if so determined by the department and approved by the governor, such additional amounts as may be deemed necessary by the department to pay interest on such revenue bonds during the estimated construction period of the capital improvement project for which such harbor revenue bonds are issued to establish, maintain, or increase reserves for the harbor revenue bonds or harbor revenue bonds heretofore authorized (whether authorized and issued or authorized and still unissued), and to pay the expenses of issuance of such bonds. The aforementioned harbor revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal of and interest on harbor revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenues derived from harbors and related facilities under the ownership of the State or operated and managed by the department, including rents, mooring, wharfage, dockage, pilotage fees, and other fees or charges presently or hereafter derived from or arising through the ownership, operation, and management of harbor and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such harbor revenue bonds, to the extent not paid from the proceeds of such bonds, shall be paid from the harbor special fund.

The governor, in the governor's discretion, may use the harbor revenue fund to finance those projects authorized in part II and listed in part IV of this Act where the method of financing is designated to be by harbor revenue bond funds; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 64. HIGHWAY REVENUE BONDS. The department of transportation may issue highway revenue bonds for highway capital improvement program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond funds with the debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital improvement projects, and, if so determined by the department and approved by the governor, such additional principal amount as may be deemed necessary by the department to pay interest on such highway revenue bonds during the estimated period of construction of the capital improvement project for which such highway revenue bonds are issued, to establish, maintain, or increase reserves for such highway revenue bonds or highway revenue bonds heretofore authorized (whether authorized and issued or authorized and still unissued), and to pay all or any part of the expenses related to the issuance of such highway revenue bonds. The aforementioned highway revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal of and interest on such highway revenue bonds, to the extent not paid from the proceeds of such highway revenue bonds, shall be payable from and secured by the revenues derived from highways and related facilities under the ownership of the State or operated and managed by the department, from the highway fuel taxes, vehicle weight taxes, and vehicle registration fees, levied and paid pursuant to sections 243-4, 248-8, 249-31, and 249-33, Hawaii Revised Statutes, and federal moneys received by the State or any department thereof which are available to pay principal of and/or interest on indebtedness of the State, or such part of any thereof as the depart-

ment may determine, and other user taxes, fees or charges currently or hereafter derived from or arising through the ownership, operation, and management of highways and related facilities and the furnishing and supplying of the services thereof. The expenses related to the issuance of such highway revenue bonds, to the extent not paid from the proceeds of such bonds, shall be paid from the state highway fund.

The governor, in the governor's discretion, may use the state highway fund to finance those projects authorized in part II and listed in part IV of this Act where the method of financing is designated to be by highway revenue bond funds; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 65. HAWAIIAN HOME LANDS REVENUE BONDS. The department of Hawaiian home lands may issue Hawaiian home lands revenue bonds for Hawaiian home lands capital improvement program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds or by general obligation bond funds with debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital improvements program projects, and, if so determined by the department and approved by the governor, such additional principal amount as may be deemed necessary by the department to pay interest on such Hawaiian home lands revenue bonds during the estimated period of construction of the capital improvements program project for which such Hawaiian home lands revenue bonds are issued, to establish, maintain, or increase reserves for the Hawaiian home lands revenue bonds heretofore authorized (whether authorized and issued or authorized and still unissued), and to pay the expenses of issuance of such bonds. The aforementioned Hawaiian home lands revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal of and interest on Hawaiian home lands revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenues from Hawaiian home lands, revenues from available lands as defined in section 203 of the Hawaiian Homes Commission Act, 1920, and related facilities under the ownership of the State or operated and managed by the department or such parts of either thereof as the department may determine, including rents and other fees or charges presently or hereafter derived from or arising through the ownership, operation, and management of Hawaiian home lands, available lands as defined in section 203 of the Hawaiian Homes Commission Act, 1920, and related facilities. The expenses of the issuance of such Hawaiian home lands revenue bonds, to the extent not paid from the proceeds of such bonds, shall be paid from the department of Hawaiian home lands revenue bond special fund.

The governor, in the governor's discretion, may use the department of Hawaiian home lands revenue bond special fund to finance those projects authorized in part II and listed in part IV of this Act where the method of financing is designated to be by Hawaiian home lands revenue bond funds; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 66. UNIVERSITY OF HAWAII REVENUE BONDS. The University of Hawaii board of regents may issue revenue bonds for capital improvement program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds, in principal amounts as are required to yield the amounts appropriated for capital improvement program projects, and if determined by the board of regents and approved by the governor, any additional principal amount deemed necessary by the board of regents to pay interest on the revenue bonds during the estimated period of construction of the capital improvement program project for which the revenue bonds are issued, to establish, maintain, or increase reserves for the revenue bonds, and to pay all or any part of the expenses related to the issuance of the revenue bonds. The revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as amended, except that the bonds shall be issued in the name of the University of Hawaii and not in the name of the State. The principal of and interest on the revenue bonds, to the extent not paid from the proceeds of the revenue bonds, shall be payable from and secured by the revenues derived from facilities under the ownership of the University of Hawaii or operated and managed by the University of Hawaii, or any part thereof as the board of regents may determine, including other moneys, rates, rents, fees, or charges currently or hereafter derived from or arising through the ownership, operation, and management of university facilities and the furnishings and supplying of the services thereof. The expenses related to the issuance of the revenue bonds, to the extent not paid from the proceeds of the bonds, shall be paid from the special funds of the University of Hawaii.

The governor, in the governor's discretion, may use University of Hawaii special funds to finance those projects authorized in part II and listed in part IV of this Act where the method of financing is designated to be by University of Hawaii revenue bond funds; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

PART VII. SPECIAL PROVISIONS

SECTION 67. GOVERNOR'S DISCRETIONARY POWERS. Any law or provision to the contrary notwithstanding, the governor may replace general obligation bond funds appropriated for capital improvement projects with general obligation reimbursable bond funds, when the expenditure of such general obligation reimbursable bond funds is deemed appropriate for the project; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 68. All general obligation bond funds used for a public undertaking, improvement, or system designated by the letter (D) shall have the bond principal and interest reimbursed from the special fund in which the net revenue, or net user tax receipts, or combination of both, of such public undertaking, improvement, or system, are deposited or credited. Bonds issued for irrigation and housing projects shall be reimbursed as provided by section 174-21 and chapter 201H, Hawaii Revised Statutes, respectively.

The governor may use, at the governor's discretion, the state highway fund, the harbor special fund, the boating special fund, the airport revenue fund, the special land and development fund, or other appropriate special funds to

finance the respective public undertaking, improvement, or system described above and authorized in this Act, where the method of financing is designated to be general obligation bond fund with debt service cost to be paid from the funds; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 69. In the event that the authorized appropriations specified for a capital improvement project listed in this Act are insufficient and where the source of funding is designated as special funds, general obligation bond fund with debt service cost to be paid from special funds, revenue bond funds, or revolving funds, the governor may make supplemental allotments from the special fund or revolving fund responsible for cash or debt service payments for the projects, or transfer unrequired balances from other unexpired projects in this Act or prior appropriation acts which authorized the use of special funds, general obligation bond fund with debt service costs to be paid from special funds, revenue bond funds, or revolving funds; provided that such supplemental allotments shall not be used to increase the scope of the project; and provided further that such supplemental allotments shall not impair the ability of the fund to meet the purposes for which it was established; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 70. If the authorized appropriations specified for a capital improvement project listed in this Act are insufficient and where the source of funding is designated as airport passenger facility charge funds, the governor may make supplemental allotments from the airport revenue fund or airport revenue bond funds, or transfer unrequired balances from other unexpired projects in this Act or prior appropriation acts that authorized the use of airport passenger facility charge funds; provided further that such supplemental allotments shall not be used to increase the scope of the project; provided further that such supplemental allotments shall not impair the ability of the fund to meet the purposes for which it was established; and provided further that the governor, at the governor's discretion, may increase the passenger facility charge fund authorization ceiling for the program to accommodate the expenditure of such funds; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 71. The governor may supplement funds for any cost element for a capital improvement project authorized under this Act by transferring such sums as may be needed from the funds appropriated for other cost elements of the same project by this Act or any other prior or future act that has not lapsed; provided that the total expenditure of funds for all cost elements shall not exceed the total appropriations for that project; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 72. After the objectives and purposes of appropriations made in this Act from the general obligation bond fund for capital improvement

projects have been met, unrequired balances, except those from University of Hawaii projects, shall be transferred to the project adjustment fund appropriated in part II and described in part IV of this Act, and shall be considered a supplementary appropriation thereto; provided that all other unrequired allotment balances, unrequired appropriation balances, and unrequired encumbrance balances shall lapse as of June 30, 2016, as provided in section 76 of this Act; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 73. If authorized appropriations specified for capital improvement projects listed in this Act or in any other act currently authorized by the legislature are insufficient, and where the source of funding for the project is designated as the general obligation bond fund, the governor may make supplemental allotments from the project adjustment fund appropriated in part II and described in part IV of this Act to supplement any currently authorized capital investment cost elements; provided further that such supplemental allotments from the project adjustment fund shall not be used to increase the scope of the project; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 74. After the objectives and purposes of appropriations made in this Act from the general obligation bond fund for capital improvement projects for the University of Hawaii have been met, unrequired balances shall be transferred to the University of Hawaii project adjustment fund appropriated in part II and described in part IV of this Act, and shall be considered a supplementary appropriation thereto; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 75. If authorized appropriations specified for University of Hawaii capital improvement projects listed in this Act or in any other act currently authorized by the legislature are insufficient, and where the source of funding for the project is designated as the general obligation bond fund, the governor may make supplemental allotments from the University of Hawaii project adjustment fund appropriated in part II and described in part IV of this Act to supplement any currently authorized capital investment cost elements; provided further that such supplemental allotments from the project adjustment fund shall not be used to increase the scope of the project; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 76. Any provision of this Act to the contrary notwithstanding, the appropriations made for capital improvement projects authorized under this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all appropriations made to be expended in fiscal biennium 2013-2015 which are unencumbered as of June 30, 2016 shall lapse as of that date; provided further that this lapsing date shall not apply to non-general

fund appropriations for projects described in section 39 of this Act where such appropriations have been deemed necessary to qualify for federal aid financing and reimbursement and are unencumbered as of June 30, 2020, shall lapse as of that date.

SECTION 77. Where it has been determined that changed conditions, such as a reduction in the particular population being served, permit the reduction in the scope of a capital improvement project described in this Act, the governor may authorize such reduction of project scope; and provided further that the governor shall notify the legislature within five days of each use of this authority and submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 78. In releasing funds for capital improvement projects, the governor shall consider legislative intent and the objectives of the user agency and its programs; the scope and level of the user agency's intended service; and the means, efficiency, and economics by which the project will meet the objectives of the user agency and the State; provided further that agencies responsible for construction shall take into consideration legislative intent, the objectives of the user agency and its programs, and the scope and level of the user agency's intended service and construct the improvement to meet the objectives of the user agency in the most efficient and economical manner possible.

SECTION 79. With the approval of the governor, designated expending agencies for capital improvement projects authorized in this Act may delegate to other state or county agencies the implementation of projects when it is determined advantageous to do so by both the original expending agency and the agency to which expending authority is to be delegated; and provided further that the governor shall notify the legislature within five days of each use of this authority and submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 80. Where county capital improvement projects are partially or totally funded by state grants as authorized in this Act or any other act of the legislature, this fact should be appropriately acknowledged during construction and upon completion of these projects.

SECTION 81. The governor may authorize the expenditure of funds for capital improvement projects not previously authorized in this Act to cope with the effects of natural disasters or unforeseen emergencies, when the effects of the natural disasters or unforeseen emergencies create an urgent need to pursue a course of action that is in the best interest of the State; provided further that no funds shall be expended without a formal declaration of a natural disaster or emergency by the governor; and provided further that the governor shall use the project adjustment fund authorized in part II and described in part IV to accomplish the purposes of this section; and provided further that the governor shall notify the legislature within five days of each use of this authority and submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 82. Notwithstanding any provision in part III of this Act, the governor may transfer savings or unrequired balances as may be available from the appropriated funds of any program in this Act to supplement the appropriation for any other program in this Act to cope with the effects of natural disasters or other unforeseen emergencies; provided that the effects of such natural disasters or emergencies create an urgent need to pursue a course of action which is in the best interest of the State; provided further that the use of such funds does not conflict with general law; and provided further that no funds shall be expended without a formal declaration of a natural disaster or emergency by the governor; and provided further that the governor shall notify the legislature within five days of each use of this authority and submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 83. No appropriation authorized in this Act for expenditure by a political subdivision of this State shall be considered to be a mandate to undertake new programs or to increase the level of services under existing programs of that political subdivision. If any appropriation authorized in this Act constitutes such a mandate within the provisions of section 5 of article VIII of the Hawaii State Constitution, such authorization shall be void and, in the case of capital improvement appropriations designated to be financed from the general obligation bond fund, the total general obligation bonds authorized for such projects shall be correspondingly decreased.

SECTION 84. Whenever the expending agency to which an appropriation is made is changed due to legislation enacted during any session of the legislature that affects the appropriations made by this Act, the governor shall transfer the necessary funds and positions to the proper expending agency as provided by law.

SECTION 85. If the State should assume the direct operation of any non-governmental agency receiving state funds under the provisions of this Act, all such funds shall constitute a credit to the State against the costs of acquiring all or any portion of the property, real, personal, or mixed, of such non-governmental agency. This credit shall be applicable regardless of when such acquisition takes place.

SECTION 86. Any provision of this Act to the contrary notwithstanding, the federal fund or other federal fund appropriations made for operating costs authorized under this Act and the provisions of section 88 of this Act shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all federal fund or other federal fund appropriations made to be expended in fiscal year 2013-2014 which are unencumbered as of June 30, 2016 shall lapse as of that date and fiscal year 2014-2015 which are unencumbered as of June 30, 2017 shall lapse as of that date.

SECTION 87. In the event that unanticipated federal funding cutbacks diminish or curtail essential, federally funded state programs, the governor may utilize savings as determined to be available from other state programs for the purpose of maintaining such programs until the next legislative session; and provided further that the governor shall notify the legislature within five days of each use of this authority and submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November

30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 88. The governor may approve the expenditure of all federal funds that are in excess of levels authorized by the legislature; provided further that the governor may allow for an increase in the appropriate federal fund authorization ceiling for the program to accommodate the expenditure of such funds; provided further that no less than five days prior to the governor's approval to expend these funds, the governor shall submit a report to the legislature; provided further that the report shall include the date when the program to receive the federal funds was first notified that additional federal funds may be available, the date that additional federal funds were known to be available, the reasons why additional federal fund appropriations were not sought during the preceding legislative session, and an explanation of the public benefit; provided further that if federal funds are received as a result of a natural or manmade disaster, the governor shall submit notification to the legislature within five days after the governor's approval to expend funds has been granted; and provided further that the governor shall submit a summary report of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 89. Where an agency is authorized to secure funds or other property from private organizations or individuals to be expended or utilized in connection with any authorized program, the agency, with the governor's approval, may enter into such undertaking, provided that the provisions of the undertaking comply with applicable state constitutional and statutory requirements; and provided further that the governor shall notify the legislature within five days of each use of this authority and submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 90. Except as otherwise provided by general law, negotiations for the purchase of land by state agencies shall be subject to the approval of the governor and the department of land and natural resources, or other appropriate agency; provided further that private lands may be acquired for the purpose of exchange for federal lands when the department of land and natural resources and the governor determine that such acquisition and exchange are necessary for the completion of any project specifically authorized by this Act.

SECTION 91. Except as otherwise provided, or except as prohibited by specific grant conditions, all federal or non-general fund reimbursements received by state programs shall be returned to the general fund or fund of originating expenses.

SECTION 92. Unless otherwise provided in this Act, the governor may transfer operating funds between appropriations within the same fund, within an expending agency, for operating purposes; provided further that the governor shall submit a report to the legislature within five days of each use of this authority; provided further that the report shall include the date of transfer, the amount of the transfer, the program ID from which funds were transferred, the program ID to which funds were transferred, the impact to the program ID funds are transferred from, and a detailed explanation of the public purposes

served by the transfer of resources; and provided further that the governor shall submit to the legislature a summary report containing the aforementioned information for each use of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 93. Except as otherwise provided in this Act, each department or agency may transfer positions within its respective authorized position ceiling for the purpose of maximizing the utilization of personnel resources and staff productivity; provided further that all such actions shall be with the prior approval of the governor and shall be consistent with appropriations provided in this Act and with provisions of part II of chapter 37, Hawaii Revised Statutes; provided further that the governor shall submit a report to the legislature within five days of each use of this authority; provided further that the report shall include the date of the transfer, the position transferred, the program from which the position was transferred, the program to which the position was transferred, responsibilities of the position prior to transfer, the responsibilities of the position after the transfer, and the manner in which the transfer maximizes the utilization of personnel resources and staff productivity; and provided further that the governor shall submit to the legislature a summary report of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 94. Any law or provision to the contrary notwithstanding, in expending funds for social welfare programs, education programs, and other programs and agencies having appropriations that are based on population and workload data as specified in the executive budget document, only so much as is necessary to provide the level of services intended by the legislature shall be expended. Affected agencies shall reduce expenditures below appropriations under procedures prescribed by the department of budget and finance if actual population and workload trends are less than the figures projected; and provided further that the department of budget and finance shall notify the legislature within five business days of each application of this proviso and submit a report of all applications of this proviso, to the legislature for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 95. With the approval of the governor, agencies that use appropriations authorized in part II of this Act for audit services may delegate that responsibility and transfer funds to the internal post audit program (AGS104), when it is determined by such agencies that it is advantageous to do so; and provided further that the governor shall submit to the legislature a summary report of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 96. With the approval of the governor, expending agencies that use appropriations authorized in part II of this Act for planning, land acquisition, design, construction, and equipment for repair and alterations may delegate responsibility and transfer funds to the construction program (AGS221) for the implementation of the repair and alterations, when it is determined by the agencies that it is advantageous to do so; and provided further that the governor shall submit to the legislature a summary report of all uses of this authority

for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 97. Agencies with appropriations authorized in part II of this Act for risk management costs shall transfer funds authorized for that purpose to risk management (AGS203) for the administration and implementation of state risk management costs and expenses, except as otherwise provided by law.

SECTION 98. With the approval of the governor, the Hawaii health systems corporation in the department of health may transfer to the department of human services funds appropriated to the Hawaii health systems corporation for the care and treatment of patients, whenever the department of human services can utilize such funds to match federal funds that may be available to help finance the cost of outpatient, acute hospital, or long-term care of indigents or medical indigents in designated critical access hospitals; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 99. With the approval of the governor, the department of health may transfer to the department of human services funds appropriated to the department of health for the care and treatment of patients, whenever the department of human services can utilize such funds to match federal funds to finance the cost of outpatient, hospital, or skilled nursing home care of indigents or medical indigents; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 100. The department of human services may enter into agreements with the department of health to furnish outpatient, hospital, and skilled nursing home care of indigents or medical indigents and to pay the department of health for such care; provided that with the approval of the director of finance, the department of health may deposit part of such receipts into the appropriations from which transfers were made as provided elsewhere in this Act; and provided further that the governor shall submit a report to the legislature of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 101. Provided that of the appropriation for each principal state department as defined by section 26-4, Hawaii Revised Statutes, the sum of \$2,500 for fiscal year 2013-2014 and the sum of \$2,500 in fiscal year 2014-2015 shall be made available in each department to be established as a separate account for a protocol fund to be expended at the discretion of the executive head of the department or agency (i.e., director, chairperson, comptroller, adjutant general, superintendent, president, or attorney general).

SECTION 102. Provided that of the general fund appropriation for Hawaii state public library system (EDN407), the sum of \$2,500 for fiscal year 2013-2014 and the sum of \$2,500 for fiscal year 2014-2015 may be used to establish a separate protocol account to be expended at the discretion of the state librarian..

SECTION 103. Provided that of the general fund appropriation for financial administration (BUF115), the sum of \$4,000 for fiscal year 2013-2014 and the sum of \$4,000 for fiscal year 2014-2015 may be used to establish a separate protocol account to be expended at the discretion of the director of finance for the promotion and improvement of state bond ratings and sales; provided further that the director of finance shall prepare a detailed report of all expenditures made from the protocol account that shall include the date of any expenditure, the purpose of any expenditure, the name of the entity that received the funds, and an explanation of the manner in which the expenditures promoted and improved the state bond ratings and sales; and provided further that the director of finance shall submit this report to the legislature no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 104. Provided that of the special fund appropriation for spectator events and shows - Aloha Stadium (AGS889), the sum of \$2,500 for fiscal year 2013-2014 and the sum of \$2,500 for fiscal year 2014-2015 may be expended at the discretion of the stadium manager for promotion and other stadium-related purposes.

SECTION 105. Except as otherwise provided, the appropriation for the office of the governor (GOV100) shall be expended at the discretion of the governor.

SECTION 106. Except as otherwise provided, the appropriation for the office of the lieutenant governor (LTG100) shall be expended at the discretion of the lieutenant governor.

SECTION 107. Provided that of the appropriations authorized for executive programs in part II of this Act for fiscal year 2013-2014 and fiscal year 2014-2015, settlements and judgments approved by the legislature in H.B. No. 775³ in the form passed by the Legislature, the Claims Bill, shall be funded within each program's departmental allocation for the respective fiscal year.

SECTION 108. Provided that if the amount of settlements and judgments approved by the legislature in H.B. No. 775³ in the form passed by the Legislature, the Claims Bill, exceeds program allocations for fiscal year 2013-2014 or fiscal year 2014-2015, as applicable, for the purposes of meeting such obligations:

- (1) A department, with the approval of the governor, may utilize allocated savings determined to be available from any other program within the department; and
- (2) Unless otherwise provided by general law, the governor may transfer funds between allocations of appropriations within a department for the purposes of paying settlements and judgments of a program.

SECTION 109. The director of finance may expend general fund, special fund, and revolving fund savings or balances determined to be available from authorized general fund, special fund, and revolving fund program appropriations, up to an aggregate total of \$20,000,000 for fiscal year 2013-2014 and \$20,000,000 for fiscal year 2014-2015, for municipal lease payments under financing agreements entered into pursuant to chapter 37D, Hawaii Revised Statutes, to finance the acquisition of depreciable assets, including, but not limited to, automobiles, computers, printers, and telecommunications equipment; and provided further that designated expending agencies (including the department of education and the University of Hawaii) for municipal lease payments and for

depreciable assets, including, but not limited to, automobiles, computers, printers, and telecommunications equipment authorized in this Act may delegate to the director of finance the implementation of such acquisitions when it is determined by all involved agencies that it is advantageous to do so; and provided further that the governor shall submit to the legislature a summary report of all uses of this authority for the previous twelve month period from December 1 to November 30 no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 110. Notwithstanding any provision in part III of this Act, the governor may transfer savings or unrequired balances as may be available of general funds from any program in this Act to supplement the department of land and natural resources' fire-fighter's contingency fund; provided further that these funds shall be used to prevent, control, and extinguish wildland fires within forest reserves, public hunting areas, wildlife and plant sanctuaries, and natural area reserves, and to fulfill mutual aid agreements in cooperation with fire control agencies of the counties and federal government.

SECTION 111. Provided that of the special fund appropriation for the native resources and fire protection program (LNR402), the sum of \$3,000,000 or so much thereof as may be necessary and available for fiscal year 2013-2014 and the sum of \$3,000,000 or so much thereof as may be necessary and available for fiscal year 2014-2015 shall be expended by the department of land and natural resources as directed by the Hawaii invasive species council to prevent the introduction of invasive species, implement invasive species control, conduct research and outreach, and eradicate established invasive species; provided further that the funds shall not be expended for any other purpose; provided further that any unexpended funds shall lapse to their respective funds; provided further that the funds to be expended for the program shall be matched by an equivalent amount, up to \$3,000,000, in new federal, county, private, and other non-state funds or in-kind services for each fiscal year; provided further that the department shall jointly work with other agencies and the community; and provided further that portions of this appropriation may be transferred to other state departments to be expended for activities related to the statewide invasive species prevention, control, research, and outreach partnership program.

SECTION 112. Provided that of the general fund appropriation for recreational fisheries (LNR805), the sum of \$150,000 appropriated in fiscal year 2013-2014 shall not be expended unless matched on a dollar-for-dollar basis with federal funds; and provided further that, if any portion of the sum of \$150,000 is not matched by federal funds as required by this section, that portion shall lapse into the general fund at the end of fiscal year 2013-2014.

SECTION 113. Provided that no funds, including federal funds, shall be expended to fill in the fiscal biennium 2013-2015 any temporary or permanent position unless the position is authorized by a general or supplemental appropriations act item or proviso that is in effect; provided further that:

- (1) This prohibition shall not apply to:
 - (A) Positions established by the University of Hawaii or Hawaii health systems corporation;
 - (B) Positions that entirely federally funded;
 - (C) Positions for special projects approved by the governor;

- (D) Positions established by an agency or department pursuant to explicit statutory authorization to establish such positions; and
- (E) Positions established by an agency or department for a program or project funded by an appropriation in an act other than a general or supplemental appropriations act;
- (2) If an agency or department intends to fill a temporary or permanent position, the funding for which is not prohibited under paragraph (1), the agency or department head shall notify in writing the legislature and department of budget and finance of the intent to do so. The notification shall be provided at least fourteen days prior to commencing recruitment for the position or, if no recruitment occurs, making an offer to fill the position. The report required under this paragraph shall certify the following:
 - (A) The legal authority used to establish the position;
 - (B) That the position was properly established pursuant to valid legal authority to establish the position;
 - (C) The date the position was established;
 - (D) The projected date the position will be filled;
 - (E) The amounts projected to be expended in fiscal year 2013-2014 and fiscal year 2014-2015;
 - (F) The source of funds to be used to pay for the position; and
 - (G) The functions to be performed by the position;
- (3) An agency or department that has filled a temporary or permanent position, the funding for which is not prohibited under paragraph (1), during the fiscal period July 1, 2013 to December 31, 2013, the fiscal period January 1, 2014 to December 31, 2014, or the fiscal period January 1, 2015 to June 30, 2015, shall submit to the department of budget and finance a report listing the positions that were filled during the applicable fiscal period. The report shall be submitted within fifteen days of the end of the applicable fiscal period; and
- (4) The department of budget and finance shall submit to the legislature a summary report listing all unauthorized positions filled during each fiscal period specified under paragraph (3) within fifteen days of the end of the applicable fiscal period. For the purposes of this paragraph, "unauthorized positions" means a position subject to paragraph (1).

SECTION 114. Provided that no funds appropriated for fiscal year 2013-2014 or fiscal year 2014-2015 shall be expended for a project listed in paragraph (1), (2), or (3) until the chief information officer finds in writing that the project is consistent with the office of information management technology's business and information technology/infrastructure resource management transformation plan, other projects listed in paragraphs (1) through (3), and the proposed Hawaii health information exchange:

- (1) The state medicaid health information technology plan, funds for which are appropriated under general support for health care payments (HMS902);
- (2) The medicaid electronic health record incentive program, funds for which are appropriated under general support for health care payments (HMS902); and
- (3) The electronic health record system for recordkeeping and claims processing, funds for which are appropriated under developmental disabilities (HTH501).

SECTION 115. Provided that of the general fund appropriation for information and technology services (AGS130) for each fiscal year, the office of information management and technology may transfer appropriations between funded budget sequences during that fiscal year; provided further that the office shall not increase the annual salary for any position authorized in AGS130 beyond the salary identified for that position in the applicable budget sequence; and provided further that the office shall submit a report to the legislature of each transfer of appropriations between budget sequences within ten days of the transfer.

SECTION 116. The comptroller shall conduct a study of the risk management program of the State for the purpose of making recommendations to improve the program. The study shall include the following:

- (1) A description of the best practices of risk management applicable to the State, identification of the State's present deficiencies in relation to the best practices, and estimation of the costs and benefits of implementing the best practices;
- (2) The identification of the optimum level of funding for the risk management program that is affordable to the State, itemized by insurance premium costs, self-insurance losses, risk retention reserves, loss prevention costs, loss adjustment costs, administrative costs, and other relevant costs;
- (3) An evaluation of the various risks of the State and the effectiveness and appropriateness of the present amounts of insurance, self-insurance, and loss retention for the risks;
- (4) A review of the procurement of insurance policies, with the purpose of promoting the procurement from responsible insurers of insurance policies providing the best coverage at the least cost;
- (5) An examination of whether insurance, loss, and administrative costs incurred by state programs or projects funded by non-general funds are properly allocated to and paid from those non-general funds; and
- (6) A recommendation of changes to administrative policies or amendments of law necessary to improve the risk management program of the State.

The comptroller shall submit the study, with findings and recommendations, to the governor and legislature before January 1, 2014.

SECTION 117. Provided that the department of human services shall prepare a report that shall include but not be limited to a detailed financial plan by means of financing for all funds expended under the TANF and TAONF programs that shall encompass projected and actual expenditures for the prior two fiscal years, projected and estimated expenditures for the current fiscal year, and projected expenditures for the next two fiscal years; provided further that all variances shall be explained; provided further that the financial plan shall include the balance of funds in the TANF Federal Reserve Fund for each of the fiscal years in the report; provided further that the financial plan shall include program ID numbers, contract names and priority numbers for each line item; and provided further that the department shall submit the report to the legislature no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 118. Provided that the department of human services shall prepare a report on the TANF and TAONF programs for the prior and current fiscal year that shall include:

- (1) The program's measures of effectiveness, projected, and actual outcomes;
- (2) Work participation rates for two-parent families and all families included in calculation of the federal work participation rate;
- (3) A listing of Hawaii businesses participating in TANF and TAONF funded work programs and amounts subsidized;
- (4) A listing of all contracts funded by the TANF and TAONF programs categorized by purpose that identifies program priority levels, amounts contracted, means of financing, an explanation of the benefits derived from each contract, and identification of all laws that require the state to provide the service; and
- (5) Utilization levels of each contract funded by the TANF and TAONF programs and populations served;

and provided further that the department shall submit the report to the legislature no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 119. Provided that the department of human services shall develop a plan to reduce the costs of all Medicaid services beginning in fiscal year 2014-2015 and thereafter; provided further that the plan furnishes cost reduction scenarios ranging from no less than fifteen per cent and up to thirty per cent of funds appropriated for Medicaid in fiscal year 2013-2014; provided further that the plan shall also include a detailing of the cost reduction options with corresponding savings estimates; provided further that the plan provided for fiscal year 2014-2015 shall include a timeline for implementation of such cost reductions, which takes into consideration all approvals deemed necessary for changes to the plan; and provided further that the plan shall be submitted to the legislature no later than thirty days prior to the convening of the regular session of 2014.

SECTION 120. Notwithstanding section 37-74(d)(2), Hawaii Revised Statutes, section 92 of this Act, or any other law to the contrary, no funds appropriated for fiscal year 2013-2014 or fiscal year 2014-2015 for school-based budgeting (EDN100) shall be transferred to any other program ID.

SECTION 121. If, based on the decision of a court of competent jurisdiction, the department of education decides to transfer funds appropriated for fiscal year 2013-2014 or fiscal year 2014-2015 for school-based budgeting (EDN100) to another program ID in a manner contrary to section 120, the department shall provide to each member of the legislature written notice of the transfer at least ten days before final approval of the transfer.

SECTION 122. If, based on the decision of a court of competent jurisdiction, any general or non-general funds appropriated for fiscal year 2013-2014 or fiscal year 2014-2015 for school-based budgeting (EDN100) are transferred out of school-based budgeting (EDN100) contrary to section 120, the general fund appropriation for the same fiscal year for state administration (EDN300) shall be reduced by the same amount as the transferred funds, and the department of education shall not expend or encumber for state administration (EDN300) more than the general fund appropriation remaining after the reduction.

SECTION 123. Provided that the director of finance shall ensure that non-facility per-pupil general fund amounts allocated for department of education and charter school students are equal on an annualized fiscal year basis; provided further that, notwithstanding any other law to the contrary, for fiscal year 2013-2014 and fiscal year 2014-2015, the director of finance shall:

- (1) Determine the sum of general fund appropriations made for the department of education and charter school student non-facility costs;
- (2) Determine the sum of department of education and charter school student enrollment based upon verified actual student enrollment counts;
- (3) Determine a per-pupil amount by dividing the sum of general fund appropriations determined under paragraph (1) by the sum of student enrollment determined under paragraph (2);
- (4) Transfer a general fund amount between the department of education and charter schools prior to November 1, 2013, and November 1, 2014, that will provide each with a per-pupil allocation equal to the amount determined on an annualized fiscal year basis under paragraph (3); and
- (5) Account for all calculations and transfers made pursuant to this section in a report to the legislature, governor, department of education, and charter schools within ten days of any transfer made pursuant to this section;

and provided further that for the purposes of this section, all general fund appropriations, except grants issued pursuant to chapter 42F, for school-based budgeting (EDN100), instructional support (EDN200), state administration (EDN300), and school support (EDN400) shall be considered non-facility appropriations for the department of education.

SECTION 124. Provided that the department of education shall prepare a report on section 302A-1301, Hawaii Revised Statutes, that includes the following:

- (1) Information and calculations for each fiscal year from fiscal year 2012-2013 to 2014-2015 on the amount and proportion of the department's operating budget that was expended for administrative costs and the amount and proportion of the department's operating budget that was expended by principals, by means of financing; and
- (2) The department's plan that will enable it to comply with the requirements of section 302A-1301(b), Hawaii Revised Statutes, for fiscal year 2013-2014 and fiscal year 2014-2015;

and provided further that the department shall submit the report to the legislature no later than sixty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 125. Provided that the department of education shall prepare a report that shall include but not be limited to a detailed breakout of the all means of financing budget for the current and next fiscal year and actual expenditures for the last completed fiscal year for each school, a report of all other funds expended on behalf of each school, and a report detailing by school:

- (1) The enrollment projections used to submit the current budget request;
- (2) The actual October 15, 2013, and the actual October 15, 2014, enrollment count as reported by each school for the current school year;

- (3) The department of education's reviewed and verified October 15, 2013, and October 15, 2014, enrollment count; and
 - (4) The department of education's reviewed and verified November 15, 2013, and November 15, 2014, enrollment count;
- and provided further that the department of education shall submit these reports to the legislature no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 126. Provided that the charter schools shall prepare a report that shall include but not be limited to a detailed breakout of the all means of financing budget for the current and next fiscal year and actual expenditures for the last completed fiscal year for each charter school, a report of all other funds expended on behalf of each school, and a report detailing by school:

- (1) The enrollment projections used to submit the current budget request;
 - (2) The actual October 15, 2013, and the actual October 15, 2014, enrollment count as reported by each school for the current school year;
 - (3) The public charter school commission's reviewed and verified October 15, 2013, and October 15, 2014, enrollment count; and
 - (4) The public charter school commission's reviewed and verified November 15, 2013, and November 15, 2014, enrollment count;
- and provided further that the public charter school commission shall submit these reports to the legislature no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 127. (a) The public charter school commission shall withhold sixty per cent of the annual general fund per-pupil allocation for a charter school for each fiscal year if the school and commission have not entered into a charter contract that is effective for that fiscal year.

If the charter contract between a charter school and commission becomes ineffective after at least sixty per cent of the annual per-pupil general fund allocation for the charter school for a fiscal year has been allocated, the commission shall withhold the remaining allocation.

The commission shall not provide any withheld amount to a charter school until a charter contract is entered into between the commission and school.

The public charter school commission shall submit a report to the legislature before the convening of the regular session of 2014 and regular session of 2015 on the status of charter contracts between the commission and charter schools during the preceding calendar year. The report shall include a list of schools with charter contracts and the date of execution and term of the contracts and a list of charter schools without charter contracts, the reason for the lack of a contract, and the amount of general funds withheld from the charter school pursuant to this section because of the lack of a contract.

(b) Subsection (a) shall also apply to an authorizer that is not the state public charter school commission. If the application of subsection (a) becomes necessary for an authorizer, the authorizer shall perform the duties of the commission.

(c) For the purpose of this section, "authorizer", "charter contract", "charter school", and "commission" mean the same as defined under section 302D-1, Hawaii Revised Statutes.

SECTION 128. Provided that for fiscal years 2013-2014 and 2014-2015, no general funds in excess of the amount the state public charter school commission determines should be allocated to the Myron B. Thompson Academy Public Charter School pursuant to chapter 302D, Hawaii Revised Statutes, minus \$255,000, shall be expended by or for that school each year until the commission has issued a written determination that the school's administrators and governing board members have appeared before the commission and have adequately responded to all inquiries it and the legislature have posed.

SECTION 129. Provided that the University of Hawaii shall prepare a report on all of its revenue sources that includes the following:

- (1) A description of each source of revenue to include identification of the source and amounts;
- (2) The actual and projected uses for each source of revenue identified by specific categories for expenditure and amounts; and
- (3) Identification of all obligations, projected obligations, and amounts placed on each source of revenue in excess of those identified in paragraph (2), including but not limited to revenues and reserves required to issue and pay the debt service on bonds, fund other debt instruments, fund projected collective bargaining increases, and initiate or expand programs;

provided further that the report shall cover actual and projected data for fiscal year 2013-2014 and fiscal year 2014-2015 and projections for the subsequent six-year planning period; provided further that the University of Hawaii shall submit the report to the legislature no later than sixty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 130. Provided that, before the University of Hawaii, during the fiscal biennium 2013-2015, renews or extends the employment of or initially appoints an officer or employee whose prospective annual salary is at least the same as the annual salary of the governor, the university's board of regents shall approve that prospective annual salary; provided further that this requirement shall not apply to the prospective salary for a position established under a collective bargaining agreement; provided further that, to determine whether the "prospective salary" of an officer or employee is subject to board approval pursuant to this section, "prospective salary" shall include annual base salary plus any allowances, or expense reimbursements or payments; and provided further that this section shall supersede any conflicting policy or directive of the board of regents. The chair of the university's board of regents shall certify that the university has complied with this section during each fiscal year of the fiscal biennium 2013-2015. The certification for a fiscal year shall be submitted to the legislature before the January 1 immediately following the end of the fiscal year.

SECTION 131. Provided that the president of the University of Hawaii shall prepare a report on the appointment of graduates of the University of Hawaii to executive and managerial positions and faculty positions during each fiscal year of the fiscal biennium 2013-2015. The report for a fiscal year shall include the following: a list of executive and managerial and faculty positions filled during the fiscal year; the positions on the list filled by persons with associate, bachelor, or graduate degrees from the University of Hawaii; and the number of persons with such degrees who applied for, but were not appointed to, each of the executive and managerial or faculty positions filled during the fiscal year. The report for a fiscal year shall be submitted to the legislature before the January 1 immediately following the end of the fiscal year.

SECTION 132. The University of Hawaii president shall prepare a plan to reallocate the general fund appropriation for the University of Hawaii for each fiscal year of the fiscal period 2014-2015 through 2020-2021 to achieve a distribution among the campuses based on funding need and not the ability to generate non-general revenues or amount of past general fund appropriations. In particular, the president shall consider a reallocation that decreases the proportion appropriated for the University of Hawaii, Manoa (UOH100), and increases the proportions appropriated to other campuses that are projected to experience a:

- (1) Greater student enrollment growth rate compared to the rates of other campuses;
- (2) Greater operating expenditure growth rate compared to the rates of other campuses; or
- (3) Greater difference between operating expenditure growth rate and tuition growth rate compared to the differences of other campuses.

The president shall submit the plan to the board of regents of the University of Hawaii, governor, and legislature before January 1, 2014.

SECTION 133. The University of Hawaii board of regents shall conduct a review of the university's public relations and communications positions that identifies or addresses the following:

- (1) The number of positions for which at least fifty per cent of each position's work hours is spent on public, government, or media relations, authorized for the university;
- (2) The change in the number of these positions between fiscal year 2000-2001 and fiscal year 2013-2014;
- (3) The number of these positions filled as of October 1, 2013; and
- (4) A determination of whether a reduction of at least twenty-five per cent of these positions is warranted.

The board of regents shall submit the review to the legislature before the convening of the regular session of 2014.

SECTION 134. The University of Hawaii board of regents shall review and, if deemed necessary, recommend revisions to the current policies on the appointment and retention of, and compensation and prerequisites for, executive and managerial personnel in order to achieve a proper balance among the following factors:

- (1) Attractiveness of the positions to qualified persons dedicated to promoting the best interests of the university and the State;
- (2) Competitiveness with peer institutions;
- (3) Affordability to state taxpayers and university students; and
- (4) Comparison with other state agencies' executive and managerial officers who have similar duties and responsibilities.

As part of the review, the board shall determine whether it should rescind any delegation of authority to the university president or other officer of the university to appoint a person to an executive or managerial position.

The board shall submit its findings and recommendations to the legislature before the convening of the regular session of 2014.

SECTION 135. Notwithstanding any law to the contrary, the director of finance may transfer into retirement benefits payments (BUF741) funds from any other program ID that are necessary to pay the employer's contribution for an employee's excess maximum retirement allowance resulting from significant

non-base pay increases as required under section 88-100, Hawaii Revised Statutes; provided that:

- (1) Any transfer shall be made out of the same fund or funds from and in the same proportion or proportions in which the employee's salary or wage is paid; and
- (2) If federal law prohibits the use of certain funds to pay the employer's contribution for an employee under section 88-100, Hawaii Revised Statutes, the director of finance shall not transfer those funds to retirement benefits payments (BUF741). Instead, the employer's contribution for the employee required under section 88-100, Hawaii Revised Statutes, shall be paid from general funds appropriated to retirement benefits payments (BUF741).

SECTION 136. Prior to January 1, 2014, the director of finance shall submit to the legislature recommendations to more accurately align budgeting for operating programs with actual expenditures of the programs. The director's recommendations shall be intended to:

- (1) Result in the submission to the legislature of full, realistic funding requests for the anticipated expenditures for all positions, current expenses, and equipment authorized for a program;
- (2) Eliminate the following: negative adjustments in the budget details for a program, reliance on vacancy and turnover savings to fund other items in a program, avoidance of filling authorized positions in order to use funds budgeted for the positions for other purposes, and establishment of positions unauthorized by the legislature;
- (3) Minimize the transfer of funds between cost elements and programs to pay for shortfalls, contingencies, emergencies, or other unanticipated costs;
- (4) Balance an expending agency's need for flexibility in the expenditure of appropriations to meet needs anticipated and unanticipated during formulation and enactment of the executive budget with the legislature's responsibility to make appropriations for public programs deemed necessary or desirable; and
- (5) Increase transparency in budgeting and expenditures.

The director's recommendations may include the establishment of additional cost elements to properly reflect items for which expenditures are made.

SECTION 137. Provided that the department of budget and finance shall post on its website all finance memorandums, executive memorandums, and administrative directives on the same day that the memorandums and directives are distributed; provided further that all attachments to the memorandums and directives shall also be posted; provided further that all finance memorandums, executive memorandums, and administrative directives issued since January 1, 2000, shall also be posted; provided further that all documents submitted to the legislature pursuant to chapter 37, Hawaii Revised Statutes, since December 1, 2008, shall be posted; and provided further that all governor's messages requesting adjustments to these documents shall also be posted.

SECTION 138. Provided that every department shall prepare a report on all positions abolished pursuant to legislative budget adjustments made under this Act; provided further that the report shall include the position number, title, full time equivalent amount, indication of whether the position is temporary or permanent, and budgeted salary by means of financing, for each program ID;

and provided further that each department submit the report to the legislature no later than August 1, 2013.

SECTION 139. Provided that the department of transportation airports administrator position established by this Act shall not be filled until all consultant staff used by the airports division in lieu of hiring airports division engineering staff are terminated.

SECTION 140. Provided that the department of transportation shall prepare a report on all budgeted and actual expenditures for special maintenance programs by program ID and means of financing for the prior three fiscal years, budgeted and estimated for the current fiscal year, and budgeted and projected for the next fiscal year; provided further that all variances from budgeted amount shall be explained; and provided further that the department shall submit the report to the legislature no later than thirty days prior to the convening of the 2014 and 2015 regular sessions.

SECTION 141. Provided that for tourism (BED113), the Hawaii tourism authority shall:

- (1) Work with the department of budget and finance to restructure the debt service payments on the Hawaii Convention Center to take advantage of current interest rates, where savings from the debt restructuring shall be used to address and enhance operations and provide for major repair and maintenance projects at the Hawaii Convention Center, including the upgrading and enhancement of the Hawaii Convention Center; and
- (2) Establish a working group, which includes the counties and the director of finance, to consider the original legislative intent and to evaluate alternative approaches for the more effective, efficient, and productive allocation of transient accommodations tax revenues to the counties; provided that the Hawaii tourism authority shall also examine the current allocations and funding levels and the use of the current allocation of TAT revenues; and provided further that the Hawaii tourism authority shall submit a report of findings and recommendations to the legislature no later than thirty days prior to the convening of the regular session of 2014.

SECTION 142. Provided that for all notification and reporting requirements in this Act, copies of the notification or report shall be submitted to the senate president's office, the speaker of the house of representatives' office, the senate ways and means committee chairperson's office, the house of representatives' finance committee chairperson's office, and to the appropriate standing committees' chairperson's office that has oversight responsibilities over the state program affected; and provided further that the notification and report shall be posted on the website of the agency responsible for submitting the notification or report.

PART VIII. MISCELLANEOUS AND EFFECTIVE DATE

SECTION 143. If any portion of this Act or its application to any person, entity, or circumstance is held to be invalid for any reason, then the legislature declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation

is held to be invalid for any reason, the remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 144. If manifest clerical, typographical or other mechanical errors are found in this Act, the governor may correct such errors.

SECTION 145. Material to be repealed is bracketed and stricken. New material in prior enacted laws is underscored.

SECTION 146. This Act shall take effect on July 1, 2013.

(Approved June 18, 2013.)

Notes

1. So in original.
2. Should be underscored.
3. Act 90.

ACT 135

S.B. NO. 1025

A Bill for an Act Relating to the Housing Loan and Mortgage Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that in 1979, it authorized the Hawaii housing authority to fund an innovative mortgage loan program for low- and moderate-income homebuyers, popularly known as the hula mae single family program. Responsibility for administering the hula mae single family program now rests with the Hawaii housing finance and development corporation.

Since that time, the legislature has authorized the issuance of revenue bonds in an aggregate principal amount of \$2,275,000,000 to fund this program. As of June 30, 2012, \$1,821,000,000 in single family mortgage purchase revenue bonds has been issued, providing eligible first-time homebuyers with mortgage loans at below market interest rates.

Homebuyers apply directly with participating lending institutions, which review eligibility and qualifications for a hula mae loan. Loans currently made under the program are securitized by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation. As of June 30, 2012, the hula mae single family program has helped over ten thousand families to purchase their first homes.

The legislature also finds that even more Hawaii families could become homeowners by broadening the hula mae program eligibility criteria to the extent not precluded by the Internal Revenue Code of 1986, as amended.

The purpose of this Act is to make homeownership accessible to more Hawaii households by updating the hula mae single family program, consistent with applicable federal law.

SECTION 2. Section 201H-91, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read:

““Homebuyer assistance” means assistance provided to eligible borrowers in conjunction with an eligible loan to provide downpayment assistance or

fund closing costs; provided that such assistance is repaid through consideration to the corporation, including borrower repayments.

“Mortgage-backed security” means any investment security, not including bonds of the corporation, that represents an interest in, or is secured by, one or more pools of mortgage loans, including any such security representing a direct obligation or guarantee of a federally-sponsored or private entity such as the Government National Mortgage Association, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation.”

2. By amending the definitions of “eligible borrower”; “eligible loans”; and “housing loan program” to read:

““Eligible borrower” means a person or family, without regard to race, creed, national origin, or sex, who:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is a bona fide resident of the State;
- (3) Is at least eighteen years of age;
- (4) Does not personally, or whose spouse does not if the person is married, own any interest in a principal residence within or without the State and who has not owned a principal residence within the three years immediately prior to the application for an eligible loan under this subpart, except this requirement shall not apply to any eligible loan for a targeted area residence as defined in the Mortgage Subsidy Bond Tax Act of 1980, Public Law 96-499[~~which residence is to replace a housing unit that has been declared structurally unsalvageable by a governmental board or agency having the power to make the declaration; and provided further that this requirement shall not apply to up to ten per cent of eligible loans of a bond issue made to single parent household borrowers. No loans, however, shall be made if they adversely affect the tax exempt status of the bonds issued. For the purpose of this section, “single parent household” means a household headed by a single person who has legal custody of one or more dependent children~~];
- (5) [~~Has never before obtained a loan under this part; and~~] Is financing a property that will be the eligible borrower’s principal residence; and
- (6) Meets other qualifications as established by rules adopted by the corporation.

“Eligible loan” means a loan under this subpart, including mortgage-backed securities backed by such a loan, to an eligible borrower for the permanent financing of a dwelling unit, including a condominium unit[;], including eligible improvement loans, loans to finance homebuyer assistance, and loans that provide the security or interest in a mortgage-backed security; provided that the property financed is located in the State, will be occupied as the principal place of residence by the eligible borrower, and meets other requirements as established by rules adopted by the corporation.

“Housing loan programs” includes all or any part of [~~the loans to lenders program, the purchase of existing loans program,~~] the advance commitments program, and the loan funding programs authorized under this subpart.”

SECTION 3. Section 201H-94, Hawaii Revised Statutes, is amended to read as follows:

“[§201H-94] Eligible loans. (a) The corporation shall establish requirements for property financed by an eligible loan, and may consider the location, age, condition, and other characteristics of the property.

(b) The corporation shall establish restrictions on the terms, maturities, interest rates, collateral, and other requirements for eligible loans.

(c) All eligible loans made shall comply with applicable state and federal laws.

(d) Notwithstanding any other provision of law, the corporation may provide homebuyer assistance in conjunction with eligible loans through loans or other means; provided that the homebuyer assistance:

- (1) Is repaid through consideration to the corporation, including borrower repayments; and
- (2) Meets restrictions and requirements as established in rules adopted by the corporation."

SECTION 4. Section 201H-97, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The corporation shall establish procedures for:

- [1] ~~The submission of requests or the invitation of proposals for loans to mortgage lenders;~~
- (2) ~~The purchase of existing loans by auction, invitation of tenders, or negotiation;~~
- (3) (1) The making of advance commitments to purchase and the purchasing of eligible loans, eligible improvement loans, or eligible project loans to be made by mortgage lenders by auction, invitation of ~~[tenders.] lenders,~~ or negotiation; and
- [4] (2) Loan applications made through mortgage lenders to eligible borrowers or qualified sponsors."

SECTION 5. Section 201H-102, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 201H-103, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 201H-104, Hawaii Revised Statutes, is repealed.

SECTION 8. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 136

S.B. NO. 516

A Bill for an Act Relating to Paternity.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 584-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A child, or guardian ad litem of the child, the child's natural mother, whether married or unmarried at the time the child was conceived, or her personal representative or parent if the mother has died; or a man alleged or

alleging himself to be the natural father, or his personal representative or parent if the father has died; or a presumed father as defined in section 584-4, or his personal representative or parent if the presumed father has died; or the child support enforcement agency, may bring an action for the purpose of declaring the existence or nonexistence of the father and child relationship ~~[within]~~ in accordance with the following ~~[time periods]~~:

- (1) If the child is the subject of an adoption proceeding, action may be brought:
 - (A) Within thirty days after the date of the child's birth in any case when the mother relinquishes the child for adoption during the thirty-day period; or
 - (B) Any time prior to the date of execution by the mother of a valid consent to the child's adoption, or prior to placement of the child with adoptive parents~~[-, but in no event later than three years after the child reaches the age of majority; or];~~
- (2) If the child has not become the subject of an adoption proceeding, within three years after the child reaches the age of majority~~[-]~~ or any time after that for good cause; provided that any period of time during which the man alleged or alleging himself to be the natural father of the child is absent from the State or is openly cohabitating with the mother of the child or is contributing to the support of the child, shall not be computed~~[-]~~;
- (3) ~~[Section 584-6]~~ This section shall not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise~~[-]~~; and
- (4) A personal representative in this section ~~[584-6]~~ may be appointed by the court upon a filing of an ex parte motion by one of the parties entitled to file a paternity action. Probate requirements need not be met. However, appointment of the personal representative in this section is limited to representation in chapter 584 proceedings."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

ACT 137

S.B. NO. 883

A Bill for an Act Relating to Collective Bargaining.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to establish a new collective bargaining unit to represent state law enforcement officers and state and county ocean safety and water safety officers.

SECTION 2. Section 89-6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

“(a) All employees throughout the State within any of the following categories shall constitute an appropriate bargaining unit:

- (1) Nonsupervisory employees in blue collar positions;
- (2) Supervisory employees in blue collar positions;
- (3) Nonsupervisory employees in white collar positions;
- (4) Supervisory employees in white collar positions;
- (5) Teachers and other personnel of the department of education under the same pay schedule, including part-time employees working less than twenty hours a week who are equal to one-half of a full-time equivalent;
- (6) Educational officers and other personnel of the department of education under the same pay schedule;
- (7) Faculty of the University of Hawaii and the community college system;
- (8) Personnel of the University of Hawaii and the community college system, other than faculty;
- (9) Registered professional nurses;
- (10) Institutional, health, and correctional workers;
- (11) Firefighters;
- (12) Police officers; ~~and~~
- (13) Professional and scientific employees, who cannot be included in any of the other bargaining units~~[-]; and~~
- (14) State law enforcement officers and state and county ocean safety and water safety officers.

(b) Because of the nature of work involved and the essentiality of certain occupations that require specialized training, supervisory employees who are eligible for inclusion in units (9) through ~~[(13)]~~ (14) shall be included in units (9) through ~~[(13);]~~ (14), respectively, instead of unit (2) or (4).”

2. By amending subsection (d) to read:

“(d) For the purpose of negotiating a collective bargaining agreement, the public employer of an appropriate bargaining unit shall mean the governor together with the following employers:

- (1) For bargaining units (1), (2), (3), (4), (9), (10), ~~and~~ (13), and (14), the governor shall have six votes and the mayors, the chief justice, and the Hawaii health systems corporation board shall each have one vote if they have employees in the particular bargaining unit;
- (2) For bargaining units (11) and (12), the governor shall have four votes and the mayors shall each have one vote;
- (3) For bargaining units (5) and (6), the governor shall have three votes, the board of education shall have two votes, and the superintendent of education shall have one vote; ~~and~~
- (4) For bargaining units (7) and (8), the governor shall have three votes, the board of regents of the University of Hawaii shall have two votes, and the president of the University of Hawaii shall have one vote.

Any decision to be reached by the applicable employer group shall be on the basis of simple majority, except when a bargaining unit includes county employees from more than one county. In ~~[such]~~ that case, the simple majority shall include at least one county.”

SECTION 3. Section 89-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No election shall be directed by the board in any appropriate bargaining unit within which:

- (1) ~~[a]~~ A valid election has been held in the preceding twelve months;
~~[or]~~
- (2) ~~[a]~~ A valid collective bargaining agreement is in force and effect~~[-];~~
or
- (3) Any new bargaining unit is created when the created unit is composed of employees currently covered by a valid collective bargaining agreement and represented by the same exclusive representative."

SECTION 4. Section 89-11, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) If an impasse exists between a public employer and the exclusive representative of bargaining unit (2), supervisory employees in blue collar positions; bargaining unit (3), nonsupervisory employees in white collar positions; bargaining unit (4), supervisory employees in white collar positions; bargaining unit (6), educational officers and other personnel of the department of education under the same salary schedule; bargaining unit (8), personnel of the University of Hawaii and the community college system, other than faculty; bargaining unit (9), registered professional nurses; bargaining unit (10), institutional, health, and correctional workers; bargaining unit (11), firefighters; bargaining unit (12), police officers; ~~[or]~~ bargaining unit (13), professional and scientific employees~~[-];~~ or bargaining unit (14), state law enforcement officers and state and county ocean safety and water safety officers, the board shall assist in the resolution of the impasse as follows:

- (1) Mediation. During the first twenty days after the date of impasse, the board shall immediately appoint a mediator, representative of the public from a list of qualified persons maintained by the board, to assist the parties in a voluntary resolution of the impasse.
- (2) Arbitration. If the impasse continues twenty days after the date of impasse, the board shall immediately notify the employer and the exclusive representative that the impasse shall be submitted to a three-member arbitration panel who shall follow the arbitration procedure provided herein.
 - (A) Arbitration panel. Two members of the arbitration panel shall be selected by the parties; one shall be selected by the employer and one shall be selected by the exclusive representative. The neutral third member of the arbitration panel, who shall chair the arbitration panel, shall be selected by mutual agreement of the parties. In the event that the parties fail to select the neutral third member of the arbitration panel within thirty days from the date of impasse, the board shall request the American Arbitration Association, or its successor in function, to furnish a list of five qualified arbitrators from which the neutral arbitrator shall be selected. Within five days after receipt of ~~[such]~~ the list, the parties shall alternately strike names from the list until a single name is left, who shall be immediately appointed by the board as the neutral arbitrator and chairperson of the arbitration panel.
 - (B) Final positions. Upon the selection and appointment of the arbitration panel, each party shall submit to the panel, in writing, with copy to the other party, a final position which shall include all provisions in any existing collective bargaining agreement not being modified, all provisions already agreed to in negotiations, and all further provisions which each party is proposing for inclusion in the final agreement.

- (C) Arbitration hearing. Within one hundred twenty days of its appointment, the arbitration panel shall commence a hearing at which time the parties may submit either in writing or through oral testimony, all information or data supporting their respective final positions. The arbitrator, or the chairperson of the arbitration panel together with the other two members, are encouraged to assist the parties in a voluntary resolution of the impasse through mediation, to the extent practicable throughout the entire arbitration period until the date the panel is required to issue its arbitration decision.
- (D) Arbitration decision. Within thirty days after the conclusion of the hearing, a majority of the arbitration panel shall reach a decision pursuant to subsection (f) on all provisions that each party proposed in its respective final position for inclusion in the final agreement and transmit a preliminary draft of its decision to the parties. The parties shall review the preliminary draft for completeness, technical correctness, and clarity and may mutually submit to the panel any desired changes or adjustments that shall be incorporated in the final draft of its decision. Within fifteen days after the transmittal of the preliminary draft, a majority of the arbitration panel shall issue the arbitration decision."

SECTION 5. The rights, benefits, and privileges currently enjoyed by state law enforcement officers and state and county ocean safety and water safety officers, including those rights, benefits, and privileges under chapters 76, 78, 87A, and 88, Hawaii Revised Statutes, shall not be impaired or diminished as a result of these employees being transitioned to the newly created bargaining unit (14). The transition to the new bargaining unit (14) shall not result in any break in service for the affected employees. The rights, benefits, and privileges currently enjoyed by state law enforcement officers and state and county ocean safety and water safety officers shall be maintained under their existing collective bargaining agreement and any successor agreement until a collective bargaining agreement is negotiated for the new bargaining unit (14).

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

ACT 138

H.B. NO. 697

A Bill for an Act Making Appropriations for Public Employment Cost Items.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. There is appropriated from the general revenues of the State of Hawaii to the legislative agencies indicated below, the following sums or

so much thereof as may be necessary for fiscal biennium, 2013-2014 and 2014-2015, to fund cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for legislative officers and employees excluded from collective bargaining:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
State ethics commission	\$48,708	\$99,364
Office of the auditor	\$75,300	\$153,500
Office of the legislative reference bureau	\$85,324	\$174,061
Office of the ombudsman	\$76,197	\$155,442
Senate	\$204,151	\$416,468
House of Representatives	\$272,320	\$555,533

SECTION 2. Funds appropriated by this part shall be allotted to the head of the respective legislative agencies for expenditure for the purposes of this part.

PART II

SECTION 3. Cost items and cost adjustments provided in this Act for any legislative officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 4. Funds appropriated or authorized by this Act that are not expended or encumbered by the end of the fiscal year for which the appropriation or authorization is made shall lapse as of that date.

SECTION 5. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

ACT 139

S.B. NO. 551

A Bill for an Act Relating to a Memorial.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The freedom and security that United States citizens enjoy today are direct results of the sacrifices and continued vigilance of the United States armed forces over the course of our nation's history. The sacrifices of the members of the United States armed forces have preserved the liberties of this nation that have made it unique in the world community. Members of the United States armed forces engaged in the Persian Gulf War, from August 2, 1990, to February 28, 1991, which culminated in the liberation of Kuwait from Iraq. The United States air-and-land conflict, known as Operation Desert Storm, began on January 17, 1991, and lasted through April 11, 1991. Operation Iraqi Freedom was a military campaign led by United States troops that began on March 20, 2003, and lasted through August 31, 2010. It was later named "Operation New Dawn" on September 1, 2010. Also known as the "War in Afghanistan", Operation Enduring Freedom is an ongoing war effort that began on October 7, 2001. Members of the United States armed forces also engaged in the Global War on Terrorism, Homeland Defense, and Operation Noble Eagle, and protected our borders by land, sea, and air. On July 24, 1994, Hawaii dedicated the Korean and Vietnam Memorial on the grounds of the State Capitol. Thus, it is both fitting

and necessary for the State to give tangible and visible recognition of the sacrifices and contributions of veterans from Hawaii who served in the Persian Gulf War, Operation Desert Storm, Operation Iraqi Freedom, Operation Enduring Freedom, Operation New Dawn, Global War on Terrorism, Homeland Defense, and Operation Noble Eagle, and who protected our borders by land, sea, and air.

SECTION 2. The office of veterans services, with the assistance of the department of accounting and general services, the department of defense, and the state historic preservation division, shall develop a plan to establish a memorial honoring the veterans of the Persian Gulf War, Operation Desert Storm, Operation Iraqi Freedom, Operation Enduring Freedom, Operation New Dawn, Global War on Terrorism, Homeland Defense, and Operation Noble Eagle, and those who have protected our borders by land, sea, and air.

A public hearing shall be held to receive comments or input from interested organizations and residents.

SECTION 3. The office of veterans services, with the assistance of the department of accounting and general services, department of defense, and state historic preservation division, shall submit a report of its findings and recommendations to the legislature no later than January 1, 2014.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 21, 2013.)

ACT 140

S.B. NO. 1106

A Bill for an Act Relating to Exemptions from Child Care Licensing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-152, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Nothing in this part shall be construed to include:

- (1) A person caring for children related to the caregiver by blood, marriage, or adoption;
- (2) A person, group of persons, or facility caring for a child less than six hours a week;
- (3) A kindergarten, school, or child care program licensed or certified by the department of education~~], the charter school review panel, the Hawaii council of private schools, or any federal agency;~~ or the United States Department of Defense and located on federal property;
- (4) A program that provides exclusively for a specialized training or skill development for children, including but not limited to programs providing activities such as athletic sports, foreign language, the Hawaiian language, dance, drama, music, or martial arts;
- (5) A multiservice organization or community association, duly incorporated under the laws of the State,¹ that operates for the purpose of promoting recreation, health, safety, or social group functions for eligible pupils in public and private schools through seventeen years of age;

- (6) Programs for children four years of age and older that operate for no more than two consecutive calendar weeks in a three-month period;
- (7) A provider agency operating or managing a homeless facility or any other program for homeless persons authorized under part XVII;
- (8) After-school, weekend, and summer recess programs conducted by the department of education pursuant to section 302A-408;
- (9) Child care programs conducted by counties pursuant to section 302A-408; provided that each county adopts rules for its programs;
- (10) Any person who enters a home in a child caring capacity and only cares for children who are of that household; ~~and~~
- (11) A person caring for two or fewer children unrelated to the caregiver by blood, marriage, or adoption~~[-]; and~~
- (12) A child care program licensed by the Hawaii council of private schools. A child care program claiming an exemption under this paragraph shall submit an application for the exemption on a form provided by the department and shall provide to the department evidence that the licensing standards of the Hawaii council of private schools meet or exceed the department's standards for a comparable program, including a monitoring component. Upon application of a child care program for the exemption under this paragraph, the department shall have the discretion to determine whether the licensing standards of the Hawaii council of private schools meet or exceed the department's standards."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

Note

- 1. Comma should be underscored.

ACT 141

H.B. NO. 879

A Bill for an Act Relating to the Hospital Sustainability Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 217, Session Laws of Hawaii 2012, is amended by amending section 2 to read as follows:

"SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER
HOSPITAL SUSTAINABILITY PROGRAM**

§ -1 **Title.** This chapter shall be known and may be cited as the "Hospital Sustainability Program Act".

§ -2 **Findings and declaration of necessity.** It is the intent of the legislature to establish a special fund within the state treasury to receive revenue from the imposition of a hospital sustainability fee to be administered by the department ~~and to~~ of human services, which shall use the revenue from the fee and associated federal medicaid matching funds to make direct payments to hospitals and for other purposes as set forth in this chapter.

§ -3 **Definitions.** As used in this chapter:

“Department” means the department of human services.

“Fiscal year” means a twelve-month period from July 1 of a particular calendar year to June 30 of the following calendar year, inclusive.

“Hospital” means any facility licensed pursuant to chapter 11-93, Hawaii Administrative Rules.

“Inpatient care” means the care of patients whose conditions require admission to a hospital.

“Net patient service revenue” means gross revenue from inpatient and outpatient care provided to hospital patients converted to net patient revenue utilizing data from Worksheets G-2 and G-3 of each ~~hospitals~~ hospital’s medicare cost report for ~~[the period ending between July 1, 2009, and June 30, 2010.]~~ fiscal year 2010-2011. If the hospital is new or did not file a fiscal year medicare cost report, the department shall obtain the hospital’s net patient service revenue from the most recent period available.

“Outpatient care” means all services furnished by hospitals to patients who are registered as hospital outpatients.

“Private hospital” means those non-public hospitals named in attachment A of the ~~[QUEST expanded]~~ medicaid section 1115 demonstration waiver that were in operation in calendar year 2012 and are currently operating.

“Section 1115 waiver” means the ~~[QUEST expanded]~~ medicaid section 1115 demonstration waiver ~~[(Number 11-W-00001/9-)]~~ under which the state medicaid program is operating.

§ -4 **Hospital sustainability program special fund.** (a) There is created in the state treasury the hospital sustainability program special fund to be administered by the department into which shall be deposited all moneys collected under this chapter.

(b) Moneys in the hospital sustainability program special fund shall consist of:

- (1) All revenue received by the department from the hospital sustainability fee;
- (2) All federal medicaid funds received by the department as a result of matching expenditures made with the hospital sustainability fee;
- (3) Any interest or penalties levied in conjunction with the administration of this chapter; and
- (4) Any designated appropriations, federal funds, donations, gifts, or moneys from any other sources.

(c) Moneys in the hospital sustainability program special fund shall be used exclusively as follows:

- (1) To make direct payments to private hospitals pursuant to the terms of the section 1115 waiver. At least ~~[ninety-three]~~ eighty-eight per cent of the moneys in the special fund shall be used for this purpose, provided that in no instance shall a hospital receive ~~[supplemental]~~ uncompensated care costs payments that exceed its allowable uncompensated care costs;

- ~~[(2) Two per cent of the moneys in the special fund shall be used for medicaid covered services for the benefit of hospitals;~~
- ~~(3) Five]~~ (2) Twelve per cent of the moneys in the special fund may be used by the department for other departmental purposes; and
- ~~[(4)]~~ (3) Any money remaining in the special fund six months after the repeal of this chapter, shall be distributed to hospitals within thirty days in the same proportions as received from the hospitals.

(d) The department shall utilize federal funds derived from state hospital certified expenditures to make supplemental payments to state hospitals and is authorized to receive intergovernmental transfers from the state hospitals to support direct supplemental payments and increased capitation rates to health plans for the benefit of the state hospitals. During any period in which the hospital sustainability fee is in effect, certified expenditures of state hospitals shall not be used to make or support direct payments to private hospitals.

~~[(e) The hospital sustainability program special fund appropriation ceiling shall be \$42,000,000 for fiscal year 2012-2013 and \$37,000,000 in federal funds for HMS 401 for fiscal year 2012-2013.]~~

§ -5 Hospital sustainability fee. (a) Effective July 1, 2012, or, if later, the effective date of any necessary federal approvals, the department shall charge and collect provider fees, to be known as the hospital sustainability fee, on inpatient and outpatient care services provided by private hospitals.

(b) The hospital sustainability fee shall be based on the net patient service revenue for inpatient services and outpatient services, respectively, of all hospitals that are subject to the hospital sustainability fee.

(c) The hospital sustainability fee for inpatient care services may differ from the fee for outpatient care services but the fees shall not in the aggregate exceed three per cent of net patient service revenue as derived from the ~~[hospitals']~~ hospital's medicare cost report ending during state fiscal year ~~[2010-]~~ 2010-2011. The inpatient hospital sustainability fee shall be ~~[2.474]~~ 2.365 per cent of net inpatient hospital service revenue. The outpatient hospital sustainability fee shall be three per cent of net outpatient hospital service revenue. Each fee shall be the same percentage for all affected hospitals, subject to subsection (d).

(d) The department shall exempt children's hospitals, federal hospitals, public hospitals, rehabilitation hospitals, ~~[and]~~ psychiatric hospitals, and any hospital that was not in operation during any part of calendar year 2012 from the hospital sustainability fees on inpatient ~~[and outpatient care]~~ services. In addition, the department shall exempt hospitals with net outpatient revenue of less than ~~[\$45,000,000]~~ \$42,500,000 per year (based on fiscal year ~~[2010]~~ 2010-2011 reports), public hospitals, and any hospital that was not in operation during any part of calendar year 2012 from the hospital sustainability fee on outpatient care services.

(e) The department, with agreement by the hospital trade association located in Hawaii, may modify the structure of the hospital sustainability program if such modification is necessary to obtain federal waiver approval consistent with the requirements of 42 Code of Federal Regulations section 433.68(e)(2).

§ -6 Hospital sustainability fee assessments. (a) Hospitals shall pay the hospital sustainability fee to the department in accordance with this chapter. The fee shall be divided and paid in four equal installments on a quarterly basis.

(b) The department shall collect, and each hospital shall pay, the hospital sustainability fee not later than the fifteenth day after the end of each calendar quarter, provided that if required federal approvals have not been secured

by the end of a calendar quarter the fees for that quarter shall be paid within ten days after notification to the hospitals that the required approvals have been received.

§ -7 **Federal approval.** The department shall seek waivers and any additional approvals from the Centers for Medicare and Medicaid Services that may be necessary to implement the hospital sustainability program.

§ -8 **Multifacility locations.** If an entity conducts, operates, or maintains more than one hospital licensed by the department of health, the entity shall pay the hospital sustainability fee for each hospital separately.

§ -9 **Penalties for failure to pay the hospital sustainability fee.** (a) If a hospital fails to pay the full amount of any hospital sustainability fee when due, there shall be added to the fee, unless waived by the department for reasonable cause, a penalty equal to prime plus two per cent of the fee that was not paid when due. Any subsequent payments shall be credited first to unpaid fee amounts beginning with the most delinquent installment rather than to penalty or interest amounts.

(b) In addition to the penalty imposed by subsection (a), the department may seek any of the following remedies for the failure of any hospital to pay its fee when due:

- (1) Withholding any medical assistance reimbursement payments until such time as the fee amount is paid in full;
- (2) Suspension or revocation of the hospital license; or
- (3) Development of a plan that requires the hospital to pay any delinquent fee in installments.

§ -10 **Private hospital payments.** (a) The department shall use moneys from the hospital sustainability program special fund to make direct payments to private hospitals in an amount equal to ~~[\$77,468,401]~~ \$81,309,367 to cover the uncompensated care costs incurred by private hospitals for serving medicaid and uninsured individuals during state fiscal year ~~[2013-]~~ 2013-2014.

(b) The department shall make quarterly payments to private hospitals to reimburse their uncompensated care costs within twenty days after the end of each calendar quarter; provided that payments shall not be due until at least fifteen days after receipt of the fees required by section -6. If the department fails to pay the full amount when due, there shall be added to the payment a penalty equal to prime plus two per cent of the payment that was not paid when due.

(c) Each eligible hospital's quarterly payment shall be equal to one-quarter of its uncompensated care costs for the fiscal year in which payment is made, as derived from the uncompensated care costs reported by all private hospitals for fiscal year ~~[2010-]~~ 2010-2011.

(d) If federal approval pursuant to section -7 is not received until after the end of any quarter for which the hospital sustainability fee is applicable, the department shall make the initial quarterly payments within five days after receipt of the hospital sustainability fee for the respective quarter.

(e) To the extent the hospital sustainability program is not effective for the entire year, the hospital sustainability fee, the state medicaid expenses and administrative fee, and the corresponding uncompensated care payments shall be based on the proportion of the fiscal year the program is in effect.

§ -11 **Special designation of hospital sustainability program special fund.** Notwithstanding section 37-53, and any law or any administrative rule to

the contrary, the specific purposes set out in section -4(c) are established as being exclusive uses of the hospital sustainability program special fund. The hospital sustainability program special fund shall not and may not be used for any other purposes, notwithstanding any authority granted to the governor or any other state official by any other statutory provisions relating to the allocation or reallocation of funds.

§ -12 Termination. (a) Collection of the hospital sustainability fee established by section -5 shall be discontinued if:

- (1) The required federal approvals specified in section -7 are not granted or are revoked by the Centers for Medicare and Medicaid Services;
- (2) The department reduces funding for hospital services below the state appropriation in effect as of the effective date of this chapter;
- (3) The department or any other state agency uses the money in the hospital sustainability program special fund for any use other than the uses permitted by this chapter; or
- (4) Federal financial participation to match the revenue from the hospital sustainability fee becomes unavailable under federal law; provided that the department shall terminate the imposition of the hospital sustainability fee beginning on the date the federal statutory, regulatory, or interpretive change takes effect.

(b) Notwithstanding section -4(c), if collection of the hospital sustainability fee is discontinued as provided in this section, any remaining moneys in the hospital sustainability program special fund shall be distributed within thirty days to the private hospitals on the same basis as the hospital sustainability fee was collected.

§ -13 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.””

SECTION 2. Act 217, Session Laws of Hawaii 2012, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect on July 1, 2012, and shall be repealed on June 30, ~~[2013;]~~ 2014; provided that section -4(c), Hawaii Revised Statutes, in section 2 of this Act shall be repealed on December 31, ~~[2013-]~~ 2014.”

SECTION 3. There is appropriated out of the hospital sustainability program special fund the sum of \$46,000,000 or so much thereof as may be necessary for fiscal year 2013-2014, with such moneys to be used consistent with the hospital sustainability program special fund.

SECTION 4. The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on June 29, 2013.

(Approved June 21, 2013.)

A Bill for an Act Relating to the Nursing Facility Sustainability Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 156, Session Laws of Hawaii 2012, is amended by amending section 1 to read as follows:

“SECTION 1. Long-term care facilities in the State face major financial challenges in providing quality health care for Hawaii residents. These challenges are largely the result of payments to medicaid enrollees for care that do not cover the actual costs of care. The legislature finds that federal funding to help sustain Hawaii’s long-term care facilities financially may be accessed through a provider fee.

Provider fees exist in forty-seven states and the District of Columbia as a means of drawing down federal funds to sustain their medicaid programs due to rising state budget deficits, increasing health care costs, and expanding medicaid rolls. Implementation of a provider fee in Hawaii would help stabilize declining medicaid payments to facilities and slow the erosion of access to care for beneficiaries served by the program.

Medicaid is jointly financed by the federal and state government, but by statutory formula, the federal government pays between fifty per cent and seventy-four per cent of medicaid costs incurred by states for care delivered to their medicaid beneficiaries. Federal medical assistance percentages vary by state, with states that have lower per capita incomes receiving higher federal matching rates. Under federal rules, the state share must be public funds that are not federal funds.

Provider fees, which are collected from specific categories of health care items and services, may be assessed on nineteen different classes of health care services, including inpatient and outpatient hospital and nursing facility services. However, there are limitations on the way provider fees are structured. The Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, P.L. 102-234, passed by Congress in 1991, imposes the following requirements:

- (1) Broad-based. To be considered broad-based, a provider fee must be imposed on all health care items or services furnished by all non-federal, non-public providers in the class in the State. Provider fee programs may exclude public facilities without violating federal law;
- (2) Uniformly imposed. In general, a provider fee is uniformly imposed if it is the same amount or rate for each provider in the class; and
- (3) Hold harmless prohibition. States may not hold providers harmless. A provider fee is considered to hold the provider harmless if the providers paying the fee receive, directly or indirectly, a non-medic-aid payment from the state or any offset or waiver that guarantees to hold the provider harmless for all or a portion of the fee. A provider fee is also considered to hold the provider harmless if the medicaid payments to the provider vary based only on the amount of the fees paid by the provider.

The maximum provider fee a state may receive is currently six per cent of net patient revenue. A number of proposals have been made, but not implemented, to eliminate medicaid provider fee programs in order to reduce the federal deficit. However, since provider fees are used by so many states, many of those who are knowledgeable about this subject view elimination of provider fees as unlikely due to strong political support for the program. A more realistic expectation is a reduction of the provider fee maximum, as proposed by President

Barack Obama's fiscal year 2012 budget, which would reduce the maximum to three and one-half per cent in 2017. This proposal recognizes that provider fees are essential for most states to maintain a stable, functioning medicaid program.

In Hawaii, a provider fee would increase medicaid payments at a time when constraints on the State's budget have forced a reduction in payments and optional benefits. The additional federal funds obtained via the fee program would reduce the amount of losses incurred by nursing facilities. As such, the provider fee would help preserve access to health care for the medicaid population and sustain the State's entire health care system.

State long-term care facilities shall not be covered by the nursing facility sustainability fee. However, other provisions of this Act are intended to assure that state facilities will benefit from the use of their certified expenditures and intergovernmental transfers to generate federal funds to cover their operating expenses.

The purpose of this Act is to ensure access to health care for medicaid recipients by establishing a nursing facility sustainability fee and a special fund to receive moneys from the nursing facility sustainability fee in order to receive federal medicaid matching funds ~~[under the QUEST expanded medicaid section 1115 demonstration waiver].~~

SECTION 2. Act 156, Session Laws of Hawaii 2012, is amended by amending section 2 as follows:

1. By amending § -2 to § -4 to read:

“§ -2 Findings and declaration of necessity. It is the intent of the legislature to establish a special fund within the state treasury to receive revenue from the nursing facility sustainability fee to be administered by the department ~~[and to use it to receive federal medicaid matching funds under the section 1115 waiver.]~~ which shall use the revenue from the fee and associated federal medicaid matching funds to make payments to nursing facilities and for other purposes as set forth in this chapter.

§ -3 Definitions. As used in this chapter:

“Continuing care retirement community” means an entity providing nursing facility services, along with assisted living or independent living on a contiguous campus with the number of assisted living and independent living beds in the aggregate being at least twice the number of nursing facility beds. For purposes of this definition, “contiguous” means land adjoining or touching other property held by the same or related organization, and includes land divided by a public road.

“Department” means the department of human services.

“Net patient service revenue” means gross inpatient revenues from services provided to nursing facility patients less reductions from gross inpatient revenue resulting from an inability to collect payment of charges. Inpatient service revenue excludes non-patient care revenues, such as revenues from beauty and barber services, vending income, interest and contributions, revenues from the sale of meals, and all outpatient revenues. Reductions from gross revenue include contractual adjustments, uncompensated care, administrative, courtesy, and policy discounts and adjustments, and other revenue deductions.

“Nursing facility” means any facility licensed pursuant to chapter 11-94.1, Hawaii administrative rules.

~~“QUEST” means the demonstration project developed by the department described in Hawaii's section 1115 waiver and includes the QUEST, QUEST Net, and QUEST ACE components.~~

~~“QUEST expanded access” means the demonstration project developed by the department described in Hawaii’s section 1115 waiver.]~~

“Resident day” means a calendar day of care provided to a nursing facility resident, including the day of admission and excluding the day of discharge; provided that one resident day shall be deemed to exist when admission and discharge occur on the same day. A resident day includes a day on which a bed is held for a patient and for which the facility receives compensation for holding the bed.

~~“Section 1115 waiver” means the QUEST expanded medicaid section 1115 demonstration waiver (Number 11-W-00001/9).]~~

§ -4 Nursing facility sustainability program special fund. (a) There is created in the state treasury the nursing facility sustainability program special fund to be administered by the department into which shall be deposited all moneys collected under this chapter.

(b) Moneys in the special fund shall consist of:

- (1) All revenues collected or received by the department from the nursing facility sustainability fee required by this chapter;
- (2) All federal medicaid funds received by the department as a result of matching expenditures made with the nursing facility sustainability fees;
- (3) Any interest or penalties levied in conjunction with the administration of this chapter; and
- (4) Any appropriations, federal funds, donations, gifts, or moneys from any other sources.

(c) Revenue from the nursing facility sustainability fee shall be used exclusively as follows:

- (1) No less than eighty-eight per cent of the revenue from the nursing facility sustainability fee shall be used to match federal medicaid funds, with the combined total to be used to enhance capitated rates to ~~[the QUEST expanded access plans]~~ medicaid managed care health plans for the purpose of increasing medicaid payments to private nursing facilities;
- (2) Twelve per cent of the revenue from the nursing facility sustainability fee ~~[shall be used by the department to restore funding for the three per cent reduction in reimbursements to nursing facilities effective 2012, and to the extent remaining after restoring the three per cent reduction for other purposes;]~~ may be used by the department for other departmental purposes; and
- (3) All moneys remaining in the special fund on December 30, ~~[2013,]~~ 2014, shall be distributed to nursing facilities within thirty days in the same proportions as received from the nursing facilities.

(d) The department shall utilize federal funds derived from state long-term care facility certified expenditures to make supplemental payments to state long-term care facilities to the extent permitted by federal law. The department may receive intergovernmental transfers from the state long-term care facilities to support direct supplemental payments and increased capitation rates to health plans for the benefit of the state long-term care facilities. During any period in which the nursing facility sustainability fee is in effect, certified expenditures of state long-term care facilities shall not be used to make or support direct payments to private nursing facilities.

~~[(e) The nursing facility sustainability program special fund ceiling appropriation shall be \$12,000,000 for fiscal year 2012-2013 and \$10,000,000 in federal funds for HMS 401 for fiscal year 2012-2013.]]~~

2. By amending § -7 to read:

“§ -7 Federal approval. The department shall seek a waiver and other approvals from the Centers for Medicare and Medicaid Services that may be necessary to implement the nursing facility sustainability program, including the approval of the contracts between the State and ~~[the QUEST and QUEST expanded access]~~ medicaid managed care health plans.”

3. By amending § -10 and § -11 to read:

“§ -10 Enhanced rates to ~~[QUEST expanded access]~~ medicaid managed care health plans. In accordance with title 42 Code of Federal Regulations section 438, the department shall use revenues from the nursing facility sustainability fee and federal matching funds to enhance the capitated rates paid to ~~[the QUEST expanded access]~~ medicaid managed care health plans for the state fiscal year ~~[2012-2013]~~ 2013-2014 consistent with the following objectives:

- (1) The rate enhancement shall be used exclusively for increasing reimbursements to private nursing facilities to support the availability of services and to ensure access to care to the¹ ~~[QUEST expanded access]~~ medicaid managed care health plan enrollees;
- (2) The rate enhancement shall be made part of the monthly capitated rates by the department to ~~[the QUEST expanded access]~~ medicaid managed care health plans, which shall provide documentation to the department and the nursing facility trade associations located in Hawaii certifying that the revenues received under paragraph (1) are used in accordance with this section;
- (3) The rate enhancement shall be actuarially sound and approved by the federal government for federal fund participation; and
- (4) The department shall modify the fee-for-service reimbursement rates of the nursing facilities to recognize the medicaid portion of the nursing facility sustainability fee as an additional cost of serving medicaid patients, and to provide a uniform percentage increase in pre-existing facility-specific rates.

§ -11 Payment of rate enhancement. The rate enhancements referred to in section -10 shall be retroactive to the effective date of this ~~[legislation.]~~ chapter. Retroactive rate enhancements shall be paid within thirty days of notification by the Centers for Medicare and Medicaid Services to the department of all necessary approvals.”

4. By amending § -13 to read:

“§ -13 Termination. (a) Collection of the nursing facility sustainability fee under section -5 shall be discontinued if:

- (1) The waiver in section -7 or the enhanced capitation rates in section -10 have not been approved by the Centers for Medicare and Medicaid Services;
- (2) The department reduces funding for nursing facility services below the state appropriation in effect on June 30, ~~[2012;]~~ 2013;
- (3) The department or any other state agency uses the money in the special fund for any use other than the uses permitted pursuant to this chapter; or
- (4) Federal financial participation to match the nursing facility sustainability fee becomes unavailable under federal law. In such case, the department shall terminate the collection of the fee beginning on

the effective date of the federal statutory, regulatory, or interpretive change.

(b) If collection of the nursing facility sustainability fee is discontinued as provided in this section, any remaining money in the special fund shall be returned to the nursing facilities from which the fee was collected within thirty days in the same proportions as received from the nursing facilities.”

SECTION 3. Act 156, Session Laws of Hawaii 2012, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect on July 1, 2012, and shall be repealed on June 30, [2013;] 2014; provided that section -4(c), Hawaii Revised Statutes, established by section 2 of this Act, shall be repealed on December 31, [2013-] 2014.”

SECTION 4. There is appropriated out of the nursing facility sustainability program special fund the sum of \$12,000,000 or so much thereof as may be necessary for fiscal year 2013-2014 with such moneys to be used consistent with the nursing facility sustainability program special fund.

SECTION 5. The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on June 29, 2013; provided that section 4 of this Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

Note

1. Should be underscored.

ACT 143

S.B. NO. 1336

A Bill for an Act Relating to Health Care.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that rural hospitals are essential components of the State’s health care system. Maintaining acute care, long-term care, and emergency services in areas like the north shore of Oahu is essential to ensure access to health care among community residents and timely access to emergency care for visitors. The loss of Kahuku medical center’s designation as a critical access hospital would endanger the center’s ability to provide critical services to residents and visitors on the north shore.

The purpose of this Act is to designate Kahuku medical center as a rural hospital for the purposes of maintaining its critical access hospital designation.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§346- Kahuku medical center. The Kahuku medical center is designated as a rural hospital for the purpose of qualifying as a critical access hospital.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on July 1, 2013, and shall be repealed on June 30, 2023.

(Approved June 21, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 144

S.B. NO. 1339

A Bill for an Act Relating to Rural Areas.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The 2010 Census results determined that Oahu no longer contains any areas that federally qualify as rural. This endangers Kahuku Medical Center’s designation as a critical access hospital and disqualifies all communities on Oahu from participating in federal rural programs. Since 2010, rural communities in Hawaii have qualified for \$1,890,000 in federal grants from the Health Resources and Services Administration’s Office of Rural Health Policy alone, with about half going to Oahu. With the release of the latest census figures, communities on Oahu no longer qualify for these and other federal programs.

While the federal definitions of rural will keep some communities from participating in some federal programs, there are several other federal programs that recognize state definitions of rural. The State of New Jersey, which has no areas within its state that meet any of the federal definitions of rural, still maintains a State Office of Rural Health and has eight areas that qualify as rural for federal programs due to the enactment by the state of a definition for rural. New Jersey maintains that if a county’s population density is below eight hundred people per square mile, the area is considered rural. Several states have rural definitions in order to protect and maintain services to remote communities within their state.

The purpose of this Act is to establish a definition of rural that would protect existing programs in remote areas of the State, such as the critical access hospital program in Kahuku, and expand opportunities for other communities that are perceived as rural within the State but no longer meet federal definitions to qualify as such.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER DESIGNATION OF RURAL AREAS FOR FEDERAL PROGRAMS

§ -1 Rural areas and federal programs. (a) The term “rural” under this section shall be strictly used to determine if an area qualifies for a federal program that requires that an area be defined or designated as rural under state or federal law. This section does not connote any land use functions for the area so

designated or in any way affect the use or definition of rural districts established pursuant to section 205-2.

(b) An area that qualifies as rural pursuant to a federal definition shall be considered rural by the State for purposes of this section only.

(c) If an area does not qualify as rural pursuant to a federal definition, the following definitions may be used for determining the area's rural status for the purposes of a federal program that accepts state definitions:

- (1) Any island with a population density fewer than or equal to five hundred people per square mile shall be considered rural; and
- (2) If an island's population density exceeds five hundred people per square mile, an area within the island shall be considered rural if it is within a zip code tabulation area with a population density below eight hundred people per square mile as determined by the population of the last official census and using the entire zip code tabulation area as determined by the United States Census Bureau."

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

ACT 145

H.B. NO. 87

A Bill for an Act Relating to Public Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 708-814, Hawaii Revised Statutes, is amended to read as follows:

"§708-814 Criminal trespass in the second degree. (1) A person commits the offense of criminal trespass in the second degree if:

- (a) The person knowingly enters or remains unlawfully in or upon premises that are enclosed in a manner designed to exclude intruders or are fenced;
- (b) The person enters or remains unlawfully in or upon commercial premises after a reasonable warning or request to leave by the owner or lessee of the commercial premises, the owner's or lessee's authorized agent, or a police officer; provided that this paragraph shall not apply to any conduct or activity subject to regulation by the National Labor Relations Act.

For the purposes of this paragraph, "reasonable warning or request" means a warning or request communicated in writing at any time within a one-year period inclusive of the date the incident occurred, which may contain but is not limited to the following information:

- (i) A warning statement advising the person that the person's presence is no longer desired on the property for a period of one year from the date of the notice, that a violation of the warning will subject the person to arrest and prosecution for trespassing pursuant to section 708-814(1)(b), and that criminal trespass in the second degree is a petty misdemeanor;
- (ii) The legal name, any aliases, and a photograph, if practicable, or a physical description, including but not limited to sex, ra-

- cial extraction, age, height, weight, hair color, eye color, or any other distinguishing characteristics of the person warned;
- (iii) The name of the person giving the warning along with the date and time the warning was given; and
 - (iv) The signature of the person giving the warning, the signature of a witness or police officer who was present when the warning was given and, if possible, the signature of the violator;
- (c) The person enters or remains unlawfully on agricultural lands without the permission of the owner of the land, the owner's agent, or the person in lawful possession of the land, and the agricultural lands:
- (i) Are fenced, enclosed, or secured in a manner designed to exclude intruders;
 - (ii) Have a sign or signs displayed on the unenclosed cultivated or uncultivated agricultural land sufficient to give notice and reading as follows: "Private Property". The sign or signs, containing letters not less than two inches in height, shall be placed along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary line; or
 - (iii) At the time of entry, are fallow or have a visible presence of livestock or a crop:
 - (A) Under cultivation;
 - (B) In the process of being harvested; or
 - (C) That has been harvested; [or]
- (d) The person enters or remains unlawfully on unimproved or unused lands without the permission of the owner of the land, the owner's agent, or the person in lawful possession of the land, and the lands:
- (i) Are fenced, enclosed, or secured in a manner designed to exclude the general public; or
 - (ii) Have a sign or signs displayed on the unenclosed, unimproved, or unused land sufficient to give reasonable notice and reads as follows: "Private Property – No Trespassing", "Government Property – No Trespassing", or a substantially similar message; provided that the sign or signs shall contain letters not less than two inches in height and shall be placed at reasonable intervals along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary line.

For the purposes of this paragraph, "unimproved or unused lands" means any land upon which there is no improvement; construction of any structure, building, or facility; or alteration of the land by grading, dredging, or mining that would cause a permanent change in the land or that would change the basic natural condition of the land. Land remains "unimproved or unused land" under this paragraph notwithstanding minor improvements, including the installation or maintenance of utility poles, signage, and irrigation facilities or systems; minor alterations undertaken for the preservation or prudent management of the unimproved or unused land, including the installation or maintenance of fences, trails, or pathways; maintenance activities, including forest plantings and the removal of weeds, brush, rocks, boulders, or trees; and the removal or securing of rocks or boulders undertaken to reduce risk to downslope properties[-]; or

- (e) The person enters or remains unlawfully in or upon the premises of any public housing project or state low-income housing project, as defined in section 356D-1, 356D-51, or 356D-91, after a reasonable warning or request to leave by housing authorities or a police officer, based upon an alleged violation of law or administrative rule; provided that a warning or request to leave shall not be necessary between 10:00 p.m. and 5:00 a.m. at any public housing project or state low-income housing project that is closed to the public during those hours and has signs, containing letters not less than two inches in height, placed along the boundary of the project property, at all entrances to the property, in a manner and position to be clearly noticeable from outside the boundary of the project property and to give sufficient notice that the public housing project or state low-income housing project is closed to the public during those hours.

(2) As used in this section, "housing authorities" means resident managers or managers, tenant monitors, security guards, or others officially designated by the Hawaii public housing authority.

~~[(2)]~~ (3) Criminal trespass in the second degree is a petty misdemeanor."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2014.

(Approved June 21, 2013.)

ACT 146

H.B. NO. 514

A Bill for an Act Relating to Public Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 356D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§356D- Exemption from tax on income and obligations. Income earned and obligations issued by a nonprofit entity determined to be a "public housing agency" pursuant to section 3(b)(6) of the United States Housing Act of 1937, as amended, and which income and obligations are declared by the United States Department of Housing and Urban Development to be exempt from all taxation imposed by the United States pursuant to section 11(b) of the Act, shall be exempt from all taxation now or hereafter imposed by the State."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 21, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 147

H.B. NO. 888

A Bill for an Act Relating to Disposition of Personal Property on Public Housing Properties.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 356D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§356D- Disposition of abandoned or seized property. (a) The authority may sell, donate, or otherwise dispose of property abandoned or seized in or around any state low-income housing project upon compliance with the requirements of this section.

(b) The authority shall send notice by certified mail, at least five calendar days prior to disposition of the abandoned or seized property, to the address of the owner of the property abandoned or seized if the owner is known or can be determined. The notice shall apprise the owner of the identity and location of the property abandoned or seized and of the intent of the authority to sell, donate, or otherwise dispose of the property. If the identity or the address of the owner is unknown or cannot be determined, the notice shall be posted on the premises on which the property was abandoned or seized.

(c) If the abandoned or seized property has an estimated value of \$500 or more per item, the authority shall also give public notice of the disposition at least once statewide or in a publication of local circulation in the county in which the property was abandoned or seized; provided that the disposition shall not take place fewer than five days after the notice of intent to dispose of the property. The value of the items shall be estimated at the discretion of the authority.

(d) The sale of abandoned or seized property having an estimated value of \$500 or more per item as estimated at the discretion of the authority shall be by public auction through oral offers in the county in which the property was abandoned or seized. If no bid is received, the property may be disposed of as the authority deems appropriate.

(e) Any person entitled to the abandoned or seized property may repossess the property prior to its disposition upon proof of entitlement and payment of all unpaid rent, debts, charges, and fines owed to the authority and all handling, storage (not less than \$25 per day), appraisal, advertising, and any other expenses incurred in connection with the proposed disposition of the abandoned or seized property.

(f) The requirement of public notice and public auction pursuant to subsections (c) and (d) shall not apply when the value of the abandoned or seized property is less than \$500 per item. Such property may be disposed of as the authority deems appropriate.

(g) The proceeds of the sale of abandoned or seized property, after deduction of all unpaid rent, debts, charges, and fines owed to the authority, and all expenses of handling, storage, appraisal, advertising, and other sale expenses, shall be first offset against any amounts owed by the owner to the State. Any amount remaining shall be held in trust for the owner of the property for thirty days, after which time the proceeds shall be paid into the authority's appropriate special fund.

(h) The State, its officers, employees, and agents shall not be liable to the owner of abandoned or seized property for actions taken pursuant to this section.”

SECTION 2. Section 356D-56, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 148

S.B. NO. 82

A Bill for an Act Relating to the Hawaii Public Housing Authority.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. Section 356D-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The authority may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers; ~~[and]~~
- (4) Adopt bylaws and rules in accordance with chapter 91 for its organization, internal management, and to carry into effect its purposes, powers, and programs~~[-];~~
- (5) Sell, lease, rent, hold, maintain, use, and operate any property, real, personal, or mixed, tangible or intangible, in support of its purposes, powers, and programs; provided that the sale of real property shall be subject to legislative approval;
- (6) Receive by gift, grant, devise, bequest, or otherwise from any source, any property, real, personal, or mixed, intangible or tangible, absolutely or in trust, to be used and disposed of, either the principal or the income thereof, for the benefit only of the residents assisted by its programs; provided that no gift to the authority that has an estimated value of \$1,000 or more shall be accepted unless approved or confirmed by the board; and
- (7) Engage the services of volunteers as deemed appropriate by the authority without regard to chapter 76, 89, 90, 103, or 103D.”

PART II

SECTION 2. Section 356D-31, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

“~~[[§356D-31]]~~ **Rentals and tenant selection.** (a) In the operation or management of federal public housing projects, the authority (acting directly or by an agent or agents) at all times shall observe the following duties with respect to rentals and tenant selection:

- (1) It may establish maximum limits of annual net income for tenant selection in any public housing project, less such exemptions as may be authorized by federal regulations pertaining to public housing. The authority may agree to conditions as to tenant eligibility or preference required by the federal government pursuant to federal law in any contract for financial assistance with the authority; provided that not less than fifty per cent of available units shall be for applicants without preference and up to fifty per cent of available units shall be for applicants with preference;
- (2) It may rent or lease the dwelling units therein only at rentals within the financial reach of persons who lack the amount of income that it determines to be necessary to obtain safe, sanitary, and un congested dwelling accommodations within the area of operation of the authority and to provide an adequate standard of living; and
- (3) It may rent or lease to a tenant a dwelling consisting of the number of rooms (but no greater number) that it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding."

SECTION 3. Section 356D-42, Hawaii Revised Statutes, is amended to read as follows:

"[§356D-42] Housing; tenant selection. Subject to the following limitations and preferences, the authority shall select tenants upon the basis of those in greatest need for the particular housing. The authority may limit the tenants of any state low-income housing project to classes of persons when required by federal law or regulation as a term or condition of obtaining assistance from the federal government[-]; provided that not less than fifty per cent of available units shall be for applicants without preference and up to fifty per cent of available units shall be for applicants with preference. Within the priorities established by the authority recognizing need, veterans with a permanent disability of ten per cent or more as certified by the United States Department of Veterans Affairs, the dependent parents of the veteran, and the deceased veteran's widow shall be given first preference."

PART III

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

ACT 149

S.B. NO. 84

A Bill for an Act Relating to Public Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 356D-1, Hawaii Revised Statutes, is amended by amending the definition of "public housing project", "housing project", or "complex" to read as follows:

““Public housing project”, “housing project”, or “complex” means a housing project directly controlled, owned, developed, or managed by the authority pursuant to ~~[the federal low-rent public]~~ any federally assisted housing program] as defined in title 24 Code of Federal Regulations section 5.100, but does not include state low-income housing projects as defined in section 356D-51.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 21, 2013.)

ACT 150

S.B. NO. 88

A Bill for an Act Relating to Intoxicating Liquors in Public Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 281-78, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No person shall ~~[consume any liquor on any]~~:

- (1) ~~[Public]~~ Consume any liquor on any public highway, except as permitted in section 291-3.4;
- (2) ~~[Public]~~ Consume any liquor on any public sidewalk, including any sidewalk within a public housing project [as defined in section 356D-1 or 356D-91; or];
- (3) ~~[Common]~~ Consume any liquor on any common area of a public housing project [as defined in section 356D-1 or 356D-91. For purposes of this paragraph, “common area” means roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances and [exits] of the building or buildings, basements, yards, gardens, recreational facilities, parking areas, storage spaces, and other parts of the project normally in common use or other areas designated by the Hawaii public housing authority]; or
- (4) Possess or keep, while on any sidewalk or common area within a public housing project, any bottle, can, or other receptacle containing any intoxicating liquor that has been opened, that has a broken seal, or the contents of which have been partially removed.

For purposes of this subsection:

“Common area” means roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits of the building or buildings, basements, yards, gardens, recreational facilities, parking areas, storage spaces, and other parts of the project normally in common use or other areas designated by the Hawaii public housing authority.

“Public housing project” means any state or federal public housing project as defined in section 356D-1 or 356D-91 or a state low-income housing project as defined in section 356D-51.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 21, 2013.)

ACT 151

S.B. NO. 305

A Bill for an Act Relating to Development of Public Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 356D-11, Hawaii Revised Statutes, is amended to read as follows:

“§356D-11 Development of property. (a) The authority, in its own behalf or on behalf of any government, may:

- (1) Clear, improve, and rehabilitate property; and
- (2) Plan, develop, construct, and finance public housing projects.

(b) The authority may develop public land in an agricultural district subject to the prior approval of the land use commission when developing lands greater than five acres in size[~~and public land in a conservation district subject to the prior approval of the board of land and natural resources~~]. The authority shall not develop state monuments, historical sites, or parks. When the authority proposes to develop public land, it shall file with the department of land and natural resources a petition setting forth such purpose. The petition shall be conclusive proof that the intended use is a public use superior to that to which the land had been appropriated.

(c) The authority may develop or assist in the development of federal lands with the approval of appropriate federal authorities.

(d) The authority shall not develop any public land where the development may endanger the receipt of any federal grant, impair the eligibility of any government agency for a federal grant, prevent the participation of the federal government in any government program, or impair any covenant between the government and the holder of any bond issued by the government.

(e) The authority may contract or sponsor with any county, housing authority, or person, subject to the availability of funds, an experimental or demonstration housing project designed to meet the needs of elders, disabled, displaced or homeless persons, low- and moderate-income persons, government employees, teachers, or university and college students and faculty.

(f) The authority may enter into contracts with eligible developers to develop public housing projects in exchange for mixed use development rights. Eligibility of a developer for an exchange pursuant to this subsection shall be determined pursuant to rules adopted by the authority in accordance with chapter 91.

As used in this subsection, “mixed use development rights” means the right to develop a portion of a public housing project for commercial use.

(g) The authority may develop, with an eligible developer, or may assist under a government assistance program in the development of, public housing projects. The land planning activities of the authority shall be coordinated with the county planning departments and the county land use plans, policies, and ordinances.

Any person, if qualified, may act simultaneously as developer and contractor.

In selecting eligible developers or in contracting any services or materials for the purposes of this subsection, the authority shall be subject to all federal procurement laws and regulations.

For purposes of this subsection, “government assistance program” means a public housing program qualified by the authority and administered or operated by the authority or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise.

(h) In connection with the development of any public housing dwelling units under this chapter, the authority may also develop commercial and industrial properties and sell or lease other properties if it determines that the uses will be an integral part of the public housing development or a benefit to the community in which the properties are situated. The authority may designate any portions of the public housing development for commercial, industrial, or other use and shall have all the powers granted under this chapter with respect thereto. The authority may use any funding authorized under this chapter to implement this subsection.

The net proceeds of all sales or leases, less costs to the authority, shall be deposited in the public housing revolving fund established by section 356D-28."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

ACT 152

S.B. NO. 1118

A Bill for an Act Relating to the Hawaii Public Housing Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 356D-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The authority shall employ, exempt from chapter 76 and section 26-35(a)(4), an executive director [and], an executive assistant[-The executive director shall be paid a salary not to exceed eighty-five per cent of the salary of the director of human resources development. The executive assistant shall be paid a salary not to exceed ninety per cent of the executive director's salary.], a chief financial management advisor, a property management branch chief, a chief planner, and a redevelopment officer, whose salaries shall be set by the board established under section 356D-3; provided that no salary shall exceed the governor's salary. The authority may employ, subject to chapter 76, technical experts and officers, agents, and employees, permanent or temporary, as required. The authority may also employ officers, agents, and employees; prescribe their duties and qualifications; and fix their salaries, not subject to chapter 76, when in the determination of the authority, the services to be performed are unique and essential to the execution of the functions of the authority; provided that if the authority hires an officer, agent, or employee in a capacity not subject to chapter 76, the authority shall include in an annual report to the legislature, to be submitted not later than twenty days prior to the convening of each regular session, the position descriptions and reasons for hiring the personnel in a civil service exempt capacity. The authority may call upon the attorney general for legal services as it may require. The authority may delegate to one or more of its agents or employees the powers and duties it deems proper."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 21, 2013.)

ACT 153

H.B. NO. 1279

A Bill for an Act Relating to Public Safety.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The intent of this Act is to incentivize partnership and investment in programs specifically designed to assist the offender population in transitioning to the community in a safe, responsible manner. This Act provides funds for holistic treatment and support services designed to enable participants from the ex-offender population to achieve self-sufficiency. These programs should include partnership with the department of public safety.

SECTION 2. The department of labor and industrial relations is authorized until June 30, 2014, to receive monetary donations and to expend the moneys collected for:

- (1) Programs specifically designed to assist the offender population in transitioning to the community in a safe, responsible way;
- (2) Holistic treatment and support services designed to enable participants from the ex-offender population to achieve self-sufficiency; and
- (3) Other purposes of this Act.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2013-2014 for expenses incurred for reintegration support, job training, employment placement, and case management, including through programs in partnership with the department of public safety, for persons convicted of crimes and reentering the community.

The sum appropriated shall be expended by the department of labor and industrial relations for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

ACT 154

H.B. NO. 218

A Bill for an Act Relating to the Corrections Population Management Commission.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. House Concurrent Resolution No. 27, H.D. 1 (2009) requested the office of Hawaiian affairs to contract for a study of the disparate representation and treatment of Native Hawaiians in Hawai'i's criminal justice system.

Pursuant to House Concurrent Resolution No. 27, H.D. 1, on September 28, 2010, the office of Hawaiian affairs released the requested study, entitled "The Disparate Treatment of Native Hawaiians in the Criminal Justice System". The study includes ground-breaking current research and analysis, using both quantitative and qualitative methods, and includes the voices of Native Hawaiians about the criminal justice system and the effect it has on their lives.

Act 170, Session Laws of Hawai'i 2011, began the process of addressing the findings and recommendations of the disparate treatment study. Act 170 established a task force to formulate policies and procedures to eliminate the disproportionate representation of Native Hawaiians in Hawai'i's criminal justice system, by looking for new strategies to reduce or avoid unnecessary involvement of these individuals with the criminal justice system. The task force debated issues and held summits throughout the pae 'āina to hear from the community on the best ways to reduce the disproportionate representation of Native Hawaiians in the criminal justice system.

In 2012, the task force submitted to the legislature a report entitled "The Native Hawaiian Justice Task Force Report", containing the task force's findings and recommendations. Among other things, the task force report recommends continuing the work of the task force by having a person or persons further examine the issue of the disproportionate number of Native Hawaiians in the criminal justice system. The legislature finds that the corrections population management commission, which is administratively attached to the department of public safety, is an appropriate agency to conduct this examination, because the commission is devoted to finding solutions to improve Hawai'i's criminal justice system.

The purpose of this Act is to:

- (1) Add two members to the corrections population management commission in order to enhance its capacity to examine the issue of the disproportionate number of Native Hawaiians in the criminal justice system; and
- (2) Specify the background and appointment process for these additional members.

SECTION 2. Section 353F-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The corrections population management commission shall consist of ~~[eleven]~~ thirteen members. The state attorney general, the director of public safety, the administrator of the office of Hawaiian affairs, a representative of the county departments of the prosecuting attorney to be selected by the prosecuting attorneys, the state public defender, the chairperson of the ~~[Hawaii]~~ Hawai'i paroling authority, the president of the senate, and the speaker of the house of representatives, or their designated representatives, shall be members of the commission. The chief justice of the ~~[Hawaii]~~ Hawai'i supreme court shall appoint one judge and one adult probation administrator of the judiciary as members of the commission. The governor shall appoint one member from the private sector who is knowledgeable on issues pertaining to reintegrating offenders into the community~~[-]~~ and one member from the public who is knowledgeable on issues relating to the criminal justice system and has substantial experience or expertise in traditional Native Hawaiian practices. Additionally, the chairperson of the ~~[Hawaii]~~ Hawai'i paroling authority shall appoint one rehabilitated offender, who is knowledgeable on issues pertaining to reintegrating offenders into the community, as a member of the commission."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 21, 2013.)

ACT 155

S.B. NO. 237

A Bill for an Act Relating to Public School Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that one of the major educational dilemmas of our time is rooted in an existing system that traps information-age students in agricultural-age schools. While the flow of information and ideas is increasingly fluid, students are confined to the physical structures and mindsets of an earlier time and place. Building, repairing, and retrofitting public schools to meet the challenges of the twenty-first century and beyond will not be easy, and the costs will be considerable. However, quality school infrastructure facilitates an environment that will prepare children to achieve and succeed in a highly competitive economy.

The infrastructure of the twenty-first century school must be energy efficient and wired with the latest technology. Classroom size must be flexible because the program, not the space, should determine the number of students per class. The school campus must be designed from its inception with student achievement in mind to maximize available land and student safety, and to offer the community multiple uses of existing structures. Most of Hawaii's school campuses fall short in these areas.

The legislature further finds that twenty-first century schools are also those that include a full complement of the people, programs, and places that support a wide range of personal learning styles and instructional modalities. Schools are often separated from personal and family service programs in urban and rural communities. One way to address this situation is to think about schools as the center of a community that can support all aspects of living and learning. The creation of school-centered communities will provide greater access to centrally located physical, cultural, social, economic, organizational, and educational programs and services that are within walking distance of children and families.

The considerable amount of underused public school lands on the State's two hundred fifty-four school campuses is an untapped resource that would provide infrastructure that could make classrooms, campuses, and communities suitable for the twenty-first century. By way of illustration, a preliminary review by a real estate expert indicates that ten parcels that have unused lands are valued at \$120,000,000 under existing surrounding uses. These lands could be developed solely for the benefit of Hawaii's public school children. The beneficiaries would be the children of Hawaii.

The purpose of this Act is to optimize the use of public school lands to generate opportunities to improve public school facilities and infrastructure to meet the challenges of the twenty-first century and to improve the overall quality of education in Hawaii. In particular, this Act establishes a pilot program to generate revenue from uses for public purposes, such as workforce housing, to build and retrofit twenty-first century schools and create more school-centered communities. The pilot program will lay important groundwork for a statewide approach and plan to optimize public school lands and modernize public school facilities. This Act also establishes the school facilities subaccount within chapter 302A, Hawaii Revised Statutes, into which shall be deposited all proceeds generated from the lease of public school lands. Moneys in the school facilities subaccount will be used to build or upgrade twenty-first century school facilities.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§302A-A Pilot program for lease of public school land. (a) There shall be established within the department a pilot program for the lease of public school land, including facilities. The department, in consultation with the board of education and any other appropriate agency, shall serve as the facilitator of the pilot program.

(b) Notwithstanding sections 171-13 and 302A-1151, or any other law to the contrary, the department may lease public school land on terms it deems appropriate; provided that:

- (1) The board may identify and select up to five public school land sites as candidates for participation in the pilot program; provided that:
 - (A) During the identification and selection process, the board shall be subject to chapter 92, shall hold at least one public meeting in each affected community, and shall foster school and community participation; and
 - (B) If the site is on land owned by the county, the department shall consult with the county;
- (2) The department may lease public school land for no more than three public school land sites identified and selected by the board pursuant to paragraph (1) under leases for a term of not more than fifty-five years per lease, unless extended pursuant to section 171-36, to lessees who shall be required to modify, construct, or utilize facilities to meet public purposes, including workforce rental housing units, in accordance with specific request for proposal or request for information guidelines; and
- (3) Each lease shall stipulate that the lessee may retain any revenue generated from the facilities; provided that:
 - (A) The lessee shall be obligated to maintain and operate the facilities for a public purpose for the length of the lease;
 - (B) The lessee shall be obligated to pay to the county all applicable property tax on the value of any improvements;
 - (C) A leasehold premium may be charged to the lessee for the right to use the public school land based on a competitive bid process;
 - (D) Upon the expiration of the lease, the facilities shall revert to the department; and
 - (E) All revenues and proceeds derived by the State under this section shall be deposited in the school facilities subaccount pursuant to section 302A-B.
- (c) Any redevelopment involving nonschool purposes shall:
 - (1) Comply with county plans, ordinances, and zoning and development codes; and
 - (2) Acquire all required government approvals and permits.

(d) Nothing in this section shall preclude the department from working with and receiving assistance from any other department or agency in carrying out the purposes of this section.

(e) Any lease entered into by the department pursuant to subsection (b) shall be fully executed no later than five years from the effective date of this section.

§302A-B School facilities subaccount. (a) All proceeds from the leases, permits, interest income generated from public school lands, and other revenue generated from the non-permanent disposition of public school lands, including facilities, pursuant to section 302A-A shall be deposited into the school facilities subaccount established pursuant to section 302A-1148(b).

(b) Except as otherwise provided, all moneys in the school facilities subaccount shall be used exclusively for the new construction and upgrade of twenty-first century school facilities, as well as the repair and maintenance of existing school facilities.”

SECTION 3. Section 302A-1148, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1148 Use of school facilities and grounds. (a) All public school buildings, facilities, and grounds shall be available for general recreational purposes, and for public and community use, whenever these activities do not interfere with the normal and usual activities of the school and its pupils. Any other law to the contrary notwithstanding, the department shall adopt rules under chapter 91 as are deemed necessary to carry out the purposes of this section and may issue licenses, revocable permits, concessions, or rights of entry to school buildings and grounds for such periods of use as deemed appropriate by the department. All such dispositions, including those in excess of fourteen days, need not be approved by the board of land and natural resources; provided that approval by the board of land and natural resources shall be required when the dispositions are for periods in excess of a year. The department may assess and collect fees and charges from the users of school buildings, facilities, grounds, and equipment, which include fees and charges assessed and collected by the department for parking on roadways and in parking areas under the jurisdiction of the department, pursuant to section 302A-1151.6. The fees and charges shall be deposited into a separate fund and expended by the department under rules as may be adopted by the board; provided that any parking fees assessed and collected by a school shall be deposited to the credit of that school’s nonappropriated local school fund account.

(b) A separate subaccount of the fund established pursuant to subsection (a), to be known as the school facilities subaccount, shall be established for all proceeds from the leases, permits, interest income generated from public school lands, and other revenue generated from the non-permanent disposition of public school lands, including facilities, pursuant to section 302A-A. The subaccount shall be governed by section 302A-B.”

SECTION 4. The department of education shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2014 and each regular session thereafter until the completion of each project authorized pursuant to this Act. The report shall provide the following:

- (1) A timeline for the pilot program pursuant to this Act, including but not limited to:
 - (A) A timeline for the redevelopment of each selected site;
 - (B) An estimate start and completion date for each selected site; and
 - (C) Estimates for the time required to obtain any necessary county or state approvals required to complete the redevelopment of each site;
- (2) A summary of the department of education’s activities, results, and recommendations to optimize the use of public school lands as a means to build or renovate twenty-first century schools and school-centered communities;
- (3) A summary of all school and community engagement efforts undertaken or that will be undertaken by the department of education in carrying out the pilot program pursuant to this Act;

- (4) A summary of the department of education's current and projected budgeted expenses, including the identification of any contracts with third parties and the creation of temporary positions within the department in carrying out the pilot program pursuant to this Act;
- (5) A summary of any capacity and funding issues or challenges the department of education has encountered in carrying out the pilot project pursuant to this Act; and
- (6) Any proposed legislation.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 for the public school lands pilot program established pursuant to section 2 of this Act.

The sums appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 6. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 8. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 156

S.B. NO. 239

A Bill for an Act Relating to Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . SECONDARY SCHOOL STUDENTS CONFERENCE

§302A- Purpose. The purpose of this part is to provide for the establishment of an annual conference of secondary school students, which will enable students in the State's secondary schools to identify, discuss, and arrive at recommended solutions to major youth problems, with emphasis on school problems that require attention and joint action by the students, the department, and the legislature. The conference format shall be recommended by the student conference committee, under the guidance of the student conference advisory committee.

§302A- Student conference committee. There is created a student conference committee composed of sixteen secondary school students. There shall be two students from each of the seven local school districts, who shall be selected by the superintendent or the superintendent's designee, and two students from schools represented by the Hawaii Association of Independent Schools, who shall be selected by a representative of the Hawaii Association of Independent Schools.

§302A- Duties of the student conference committee. It shall be the duty of the student conference committee, under the guidance of the student conference advisory committee, to:

- (1) Plan and coordinate all phases of the annual conference of secondary school students;
- (2) Set the theme, scope, and format of the conference;
- (3) Set the agenda of the conference;
- (4) Determine the number of participants;
- (5) Plan and provide for food, lodging, and the transportation of all participants;
- (6) Evaluate the worth and effectiveness of the conference; and
- (7) Consider and act on any other matter relevant to or necessary to effectuate the purpose of this part.

§302A- Student conference advisory committee. There is created a student conference advisory committee to assist and advise the student conference committee in planning, coordinating, and evaluating the annual conference of secondary school students. The department shall maintain guidelines and procedures for the establishment of the student conference advisory committee.

§302A- Annual conference. The annual conference of secondary school students shall be held once each school year, subject to program and funding limitations."

SECTION 2. Chapter 317, Hawaii Revised Statutes, is repealed.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 21, 2013.)

ACT 157

S.B. NO. 458

A Bill for an Act Relating to the State Educational Facilities Improvement Special Fund.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. Section 36-32, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) There is created in the treasury of the State the state educational facilities improvement special fund[, into which shall be deposited a portion of all general excise tax revenues collected by the department of taxation under section 237-34]. The special fund shall be used solely to plan, design, acquire lands for, and to construct public school facilities and to provide equipment and tech-

nology infrastructure to improve public schools and other facilities under the jurisdiction of the department of education, except public libraries. In addition, activities of the department of education intended to eliminate the gap between the facility needs of schools and available resources shall be eligible for funding from the special fund. Expenditures from the special fund shall be limited to projects authorized by the legislature for fiscal years ending prior to July 1, 2016, and shall be subject to sections 37-31, and 37-33 through 37-40. Appropriations or authorizations from the special fund shall be expended by the superintendent of education.

(b) There is established within the state educational facilities improvement special fund a separate account, to be known as the lease payments for schools account, for lease payments required by financing agreements entered into prior to July 1, 2013, by the department of education pursuant to this section and sections 37D-2 and 302A-1506. The lease payments for schools account shall be funded by legislative appropriations and expended by the superintendent of education. Expenditures from the lease payments for schools account shall be exempt from chapters 103 and 103D and are restricted to lease payments on new schools included within the department of education's current six year capital improvement programs and for which:

- (1) The legislature adopted a concurrent resolution directing the department of education to:
 - (A) Build a new school in a specific geographic area using the design-build method; and
 - (B) Pursue the use of a financing agreement to build the new school; or
- (2) The legislature appropriated planning and design funds and specified that the remainder of the costs necessary to complete the project are eligible for funding through a financing agreement;

provided that any school to which the legislature has appropriated planning and design funds prior to July 1, 2007, and for which a private developer is willing to enter into a lease-purchase agreement with the department of education within twelve months of July 1, 2007, is exempt from the requirements of [§ paragraphs] (1) and (2)."

SECTION 2. Section 237-31, Hawaii Revised Statutes, is amended to read as follows:

"§237-31 Remittances. All remittances of taxes imposed by this chapter shall be made by money, bank draft, check, cashier's check, money order, or certificate of deposit to the office of the department of taxation to which the return was transmitted. The department shall issue its receipts therefor to the taxpayer and shall pay the moneys into the state treasury as a state realization, to be kept and accounted for as provided by law; provided that:

- ~~(1)~~ ~~The sum from all general excise tax revenues realized by the State that represents the difference between \$45,000,000 and the proceeds from the sale of any general obligation bonds authorized for that fiscal year for the purposes of the state educational facilities improvement special fund shall be deposited in the state treasury in each fiscal year to the credit of the state educational facilities improvement special fund;~~
- (2) (1) A sum, not to exceed \$5,000,000, from all general excise tax revenues realized by the State shall be deposited in the state treasury in each fiscal year to the credit of the compound interest bond reserve fund; and

- [3] (2) A sum from all general excise tax revenues realized by the State that is equal to one-half of the total amount of funds appropriated or transferred out of the hurricane reserve trust fund under sections 4 and 5 of Act 62, Session Laws of Hawaii 2011, shall be deposited into the hurricane reserve trust fund in fiscal year 2013-2014 and in fiscal year 2014-2015; provided that the deposit required in each fiscal year shall be made by October 1 of that fiscal year."

PART II

SECTION 3. Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- [4] ~~State educational facilities improvement special fund;~~
- [5] (4) Convention center enterprise special fund under section 201B-8;
- [6] (5) Special funds established by section 206E-6;
- [7] (6) Housing loan program revenue bond special fund;
- [8] (7) Housing project bond special fund;
- [9] (8) Aloha Tower fund created by section 206J-17;
- [10] (9) Funds of the employees' retirement system created by section 88-109;
- [11] (10) Unemployment compensation fund established under section 383-121;
- [12] (11) Hawaii hurricane relief fund established under chapter 431P;
- [13] (12) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- [14] (13) Tourism special fund established under section 201B-11;
- [15] (14) Universal service fund established under section 269-42;
- [16] (15) Emergency and budget reserve fund under section 328L-3;
- [17] (16) Public schools special fees and charges fund under section 302A-1130;
- [18] (17) Sport fish special fund under section 187A-9.5;
- [19] (18) Glass advance disposal fee established by section 342G-82;
- [20] (19) Center for nursing special fund under section 304A-2163;
- [21] (20) Passenger facility charge special fund established by section 261-5.5;
- [22] (21) Court interpreting services revolving fund under section 607-1.5;
- [23] (22) Hawaii cancer research special fund;
- [24] (23) Community health centers special fund;
- [25] (24) Emergency medical services special fund;
- [26] (25) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- [27] (26) Shared services technology special fund under section 27-43; and
- [28] (27) Automated victim information and notification system special fund established under section 353-136,

shall deduct five per cent of all receipts of all special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year."

SECTION 4. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a) Each special fund, except the:
- (1) Transportation use special fund established by section 261D-1;
 - (2) Special out-of-school time instructional program fund under section 302A-1310;
 - (3) School cafeteria special funds of the department of education;
 - (4) Special funds of the University of Hawaii;
 - ~~[(5)]~~ ~~State educational facilities improvement special fund;~~
 - ~~[(6)]~~ (5) Special funds established by section 206E-6;
 - ~~[(7)]~~ (6) Aloha Tower fund created by section 206J-17;
 - ~~[(8)]~~ (7) Funds of the employees' retirement system created by section 88-109;
 - ~~[(9)]~~ (8) Unemployment compensation fund established under section 383-121;
 - ~~[(10)]~~ (9) Hawaii hurricane relief fund established under section 431P-2;
 - ~~[(11)]~~ (10) Convention center enterprise special fund established under section 201B-8;
 - ~~[(12)]~~ (11) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
 - ~~[(13)]~~ (12) Tourism special fund established under section 201B-11;
 - ~~[(14)]~~ (13) Universal service fund established under section 269-42;
 - ~~[(15)]~~ (14) Emergency and budget reserve fund under section 328L-3;
 - ~~[(16)]~~ (15) Public schools special fees and charges fund under section 302A-1130;
 - ~~[(17)]~~ (16) Sport fish special fund under section 187A-9.5;
 - ~~[(18)]~~ (17) Center for nursing special fund under section 304A-2163;
 - ~~[(19)]~~ (18) Passenger facility charge special fund established by section 261-5.5;
 - ~~[(20)]~~ (19) Court interpreting services revolving fund under section 607-1.5;
 - ~~[(21)]~~ (20) Hawaii cancer research special fund;
 - ~~[(22)]~~ (21) Community health centers special fund;
 - ~~[(23)]~~ (22) Emergency medical services special fund;
 - ~~[(24)]~~ (23) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
 - ~~[(25)]~~ (24) Shared services technology special fund under section 27-43;
 - ~~[(26)]~~ (25) Nursing facility sustainability program special fund, ~~[(26)]~~ under Act 156, Session Laws of Hawaii 2012~~[(26)]~~;
 - ~~[(27)]~~ (26) Automated victim information and notification system special fund established under section 353-136; and
 - ~~[(28)]~~ (27) Hospital sustainability program special fund under ~~[(27)]~~ Act 217, Session Laws of Hawaii 2012~~[(27)]~~.

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.”

SECTION 5. Section 37D-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is hereby established and authorized the financing agreement program of the State. Any agency desiring to acquire or improve projects through the financing agreement program established and authorized by this chapter shall submit a written request to the department providing any information that the department shall require. Notwithstanding any other law to the contrary, and except for the Hawaii health systems corporation and its regional system boards, only with the approval by the attorney general as to form and legality and upon the written request of one or more agencies may the department enter into a financing agreement in accordance with this chapter, and only with the approval by the attorney general as to form and legality, and by the director as to fiscal responsibility, and upon the written request of an agency, the agency may enter into a financing agreement in accordance with this chapter, except that ~~the department of education may enter into a financing agreement in accordance with section 36-32 with the concurrence of the director and with the approval of the attorney general as to form and legality; and that~~ the board of regents of the University of Hawaii may enter into a financing agreement in accordance with this chapter without the approval of the director and of the attorney general as to form and legality if the principal amount of the financing agreement does not exceed \$3,000,000. A financing agreement may be entered into by the department on behalf of one or more agencies, or by an agency, at any time (before or after commencement or completion of any improvements or acquisitions to be financed) and shall be upon terms and conditions the department finds to be advantageous. In each case of a written request by the judiciary to participate in the financing agreement program, the department shall implement the request; provided that the related financing agreement shall be upon terms and conditions the department finds to be advantageous. Any financing agreement entered into by the department without the approval, or by an agency without the approvals required by this section shall be void and of no effect. A single financing agreement entered into by the department may finance a single item or multiple items of property to be used by multiple agencies or may finance a single item or multiple items of property to be used by a single agency. If the financing agreement is by the department, the department shall bill any agency that benefits from property acquired with the proceeds of a financing agreement for the agency’s pro rata share of:

- (1) The department’s costs of administration of the financing agreement program; and
- (2) The financing costs, including the principal and interest components of the financing agreement and insurance premiums,

on a monthly or other periodic basis, and may deposit payments received in connection with the billings with a trustee as security for the financing agreement. Any agency receiving such a bill shall be authorized and shall pay the amounts billed from available moneys.

If a financing agreement is by an agency, the agency shall deposit on a monthly or other periodic basis with the department, payments from available moneys with respect to the agency’s financing costs, including the principal and interest components of the financing agreement and insurance premiums, which payments the department may deposit with a trustee as security for the financing agreement. The department may bill an agency for the department’s costs of

administering the agency's payments and the agency receiving such a bill shall be authorized to and shall pay the amounts billed from available moneys."

SECTION 6. Section 36-32, Hawaii Revised Statutes, is repealed.

SECTION 7. All moneys collected pursuant to section 237-31, Hawaii Revised Statutes, deposited into the state educational facilities improvement special fund established under section 36-32, Hawaii Revised Statutes, and remaining unencumbered on balance in that special fund shall lapse to the credit of the general obligation bond fund on July 1, 2023.

PART III

SECTION 8. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval; provided that:

- (1) Part II shall take effect on July 1, 2023;
- (2) The amendments made to section 36-27(a), Hawaii Revised Statutes, by section 3 of this Act shall not be repealed when that section is reenacted on June 30, 2015, pursuant to Act 79, Session Laws of Hawaii 2009; and
- (3) The amendments made to section 36-30(a), Hawaii Revised Statutes, by section 4 of this Act shall not be repealed when that section is reenacted on June 30, 2015, pursuant to Act 79, Session Laws of Hawaii 2009.

(Approved June 21, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 158

S.B. NO. 48

A Bill for an Act Relating to the Department of Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 201-72.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established an aerospace advisory committee within the office of aerospace development of the department of business, economic development, and tourism for administrative purposes. The committee shall be composed of [~~sixteen~~] fifteen members appointed by the governor, as provided in section 26-34, except as otherwise provided in this section. Of the [~~sixteen~~] fifteen members:

- (1) Three members shall be representatives of the aerospace industry. One member shall be appointed from a list of nominees submitted by the president of the senate, and one member shall be appointed from a list of nominees submitted by the speaker of the house of representatives;
- (2) Three members shall be representatives of the aerospace industry in this State. One member shall be appointed from a list of nominees

submitted by the president of the senate, and one member shall be appointed from a list of nominees submitted by the speaker of the house of representatives;

- (3) One member shall be a representative of investment banking;
- (4) Four members shall represent the economic development boards of Kauai, Oahu, Maui, and Hawaii, respectively, to be appointed, respectively, from a list of nominees submitted by each of these economic development boards;
- (5) ~~Four~~ **Three** members shall represent ~~[the department of education,]~~ the University of Hawaii at Manoa, ~~[the]~~ University of Hawaii at Hilo, and ~~[the]~~ University of Hawaii community college system, respectively, to be appointed, one each, from a list of nominees submitted by ~~[the department of education,]~~ the University of Hawaii at Manoa, ~~[the]~~ University of Hawaii at Hilo, and ~~[the]~~ University of Hawaii community college system, respectively; and
- (6) One member, not appointed under paragraphs (1) through (5) of this subsection, to serve as chairperson, who shall have experience, knowledge, and expertise in space-related activities and development in the global and state aerospace industry.”

SECTION 2. Section 205A-62, Hawaii Revised Statutes, is amended to read as follows:

“[§205A-62] Duties and responsibilities of the lead agency. The lead agency shall have the following duties and responsibilities:

- (1) Coordinate overall implementation of the plan, giving special consideration to the plan’s priority recommendations;
- (2) Review and periodically update the plan;
- (3) Coordinate the development of state agency work plans to implement the ocean resources management plan. The work plans shall be revised on a biennial basis and coordinated with the budget process. State agencies with responsibilities relating to marine and coastal zone management include but are not limited to:
 - (A) The department of agriculture;
 - (B) The department of business, economic development, and tourism;
 - (C) The department of defense;
 - ~~[(D)]~~ ~~The department of education;~~
 - ~~[(E)]~~ (D) The department of health;
 - ~~[(F)]~~ (E) The department of land and natural resources;
 - ~~[(G)]~~ (F) The department of public safety;
 - ~~[(H)]~~ (G) The department of transportation; and
 - ~~[(I)]~~ (H) The University of Hawaii;
- (4) Ensure that state agency work plans are closely coordinated with the work plans of relevant federal and county agencies;
- (5) Analyze, resolve conflicts between, and prioritize, in cooperation with relevant agencies and as part of the work plan development process, the sector-specific recommendations included in the plan;
- (6) Coordinate exclusive economic zone and other marine-related issues with state and county agencies;
- (7) Provide technical assistance to the agencies on policy and issue-related matters regarding marine and coastal resources management;
- (8) Coordinate marine and coastal education activities; and

- (9) Adopt rules pursuant to chapter 91 to carry out the purposes of this part.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 21, 2013.)

ACT 159

S.B. NO. 244

A Bill for an Act Relating to Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 302D, Hawaii Revised Statutes, is amended by adding five new sections to be appropriately designated and to read as follows:

“§302D-A **Annual audit.** Each charter school shall annually complete an independent financial audit that complies with the requirements of its authorizer and the department.

§302D-B **Criminal history record checks.** (a) The commission shall develop procedures for obtaining verifiable information regarding the criminal history of persons who are employed or seeking employment in any position, including teacher trainees, that places them in close proximity to children. These procedures shall include criminal history record checks in accordance with section 846-2.7. Information obtained pursuant to this subsection shall be used exclusively by the employer or prospective employer for the purpose of determining whether a person is suitable for working in close proximity to children. All such decisions shall be subject to applicable federal laws and regulations.

- (b) The employer or prospective employer may:
- (1) Refuse to allow or continue to allow teacher training;
- (2) Terminate the employment of any employee; or
- (3) Deny employment to an applicant,

if the person has committed a crime, and if the employer or prospective employer finds by reason of the nature and circumstances of the crime, that the person poses a risk to the health, safety, or well-being of children. Refusal, termination, or denial may occur only after appropriate investigation and notification to the employee or applicant of the results and planned action and after the employee or applicant is given an opportunity to meet and rebut the findings. Nothing in this subsection shall abrogate any applicable rights under chapter 76 or 89, or any administrative rule of the commission.

(c) Notwithstanding any other law to the contrary, for purposes of this section, the commission shall be exempt from section 831-3.1 and shall not be required to conduct investigations, notifications, or hearings in accordance with chapter 91.

§302D-C **Enrollment.** (a) A public charter school shall not discriminate against any student or limit admission based on race, color, ethnicity, national origin, religion, gender, sexual orientation, income level, disability, level of proficiency in the English language, need for special education services, or academic or athletic ability.

- (b) A start-up charter school:
 - (1) Shall be open to any student residing in the State;
 - (2) Shall enroll all students who submit an application, unless the number of students who submit an application exceeds the capacity of a program, class, grade level, or building;
 - (3) Shall select students through a public lottery if, as described in paragraph (2), capacity is insufficient to enroll all students who have submitted a timely application;
 - (4) May give an enrollment preference to students within a given age group or grade level and may be organized around a special emphasis, theme, or concept as stated in the charter school's application and as approved by the charter school's authorizer;
 - (5) May give an enrollment preference to students enrolled in the charter school during the previous school year and to siblings of students already enrolled at the charter school; and
 - (6) May give any other enrollment preference permitted by the charter school's authorizer, on an individual charter school basis, if consistent with law;

provided that nothing in this subsection shall preclude the formation of a start-up charter school whose mission is focused on serving students with disabilities, who are of the same gender, who pose such severe disciplinary problems that they warrant a specific educational program, or who are at a risk of academic failure.

- (c) A conversion charter school shall:
 - (1) Enroll any student who resides within the school's former geographic service area pursuant to section 302A-1143, for the grades that were in place when the public school converted to a charter school; provided that the department may consult with a conversion charter school every three years to determine whether realignment of the charter school's service area is appropriate given population shifts and the department's overall service area reviews;
 - (2) Follow the department's procedures regarding enrollment, including but not limited to geographic exceptions and enrollment preferences; and
 - (3) Be subject to subsection (b) for grades that were not in place when the school converted to a public charter school.

§302D-D Rules. Unless otherwise provided for in this chapter or chapter 302A, the commission may adopt rules pursuant to chapter 91 to administer and implement this chapter; provided that the board shall maintain exclusive rule-making authority over state educational policy.

§302D-E Facilities funding. (a) Beginning with fiscal year 2014-2015 and each fiscal year thereafter, the commission may request facilities funding for charter schools as part of its annual budget request to the director of finance.

(b) The legislature may make an appropriation based upon the facilities funding request pursuant to subsection (a).

(c) The governor, pursuant to chapter 37, may impose restrictions or reductions on appropriations for charter schools similar to those imposed on other public schools.

(d) This section shall not limit the ability of the director of finance to modify or amend any allotment pursuant to chapter 37.

(e) The commission shall develop criteria to determine the distribution of funds appropriated pursuant to subsection (b) to the charter schools. The

criteria shall include but not be limited to distribution based on the need and performance of the charter schools.”

SECTION 2. Section 302A-101, Hawaii Revised Statutes, is amended by amending the definition of “public schools” to read as follows:

““Public schools” means all academic and noncollege type schools established and maintained by the department and charter schools ~~[chartered by the board of education, in accordance with law.]~~ governed by chapter 302D.”

SECTION 3. Section 302D-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definitions of “authorizer”, “charter school” or “public charter school”, and “organizational viability” to read:

““Authorizer” means an entity established under this chapter with chartering authority to review charter applications, decide whether to approve or ~~[reject]~~ deny charter applications, enter into charter contracts with applicants, oversee public charter schools, and decide whether to authorize, ~~[reauthorize,]~~ renew, deny renewal of, or ~~[reject]~~ revoke charter contracts. The term may include the commission when appropriate.

“Charter school” or “public charter school” refers to those public schools and their respective governing boards, as defined in this section, that are holding ~~[charters]~~ charter contracts to operate as charter schools under this chapter, including start-up and conversion charter schools, and that have the flexibility and independent authority to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, virtual education, length of the school day, week, or year, and personnel management.

“Organizational viability” means that a charter school:

- (1) Has been duly constituted and operates in accordance with its charter;
- (2) Has a governing board established in accordance with law and the charter school’s charter;
- (3) Employs sufficient faculty and staff to provide the necessary educational program and support services to operate the facility in accordance with its charter;
- (4) Maintains accurate and comprehensive records regarding students and employees as determined by its authorizer;
- (5) Meets appropriate standards of student achievement as defined by the board pursuant to its duties under article X, section 3, of the constitution of the State of Hawaii;
- (6) Cooperates with board and authorizer requirements in conducting its functions;
- (7) Complies with applicable federal, state, and county laws and requirements;
- (8) In accordance with authorizer guidelines and procedures, is financially sound and fiscally responsible in its use of public funds, maintains accurate and comprehensive financial records, operates in accordance with generally accepted accounting practices, and maintains a sound financial plan;
- (9) Operates within the scope of its charter contract and fulfills obligations and commitments of its charter;
- (10) Complies with all health and safety laws and requirements;
- (11) Complies with all authorizer directives, policies, and procedures; and

- (12) Complies with all board policies deemed applicable to charter schools by the board.”

2. By deleting the definition of “executive director”.

[~~““Executive director” means the executive director of the state public charter school commission.”]~~

SECTION 4. Section 302D-3, Hawaii Revised Statutes, is amended to read as follows:

~~“[§302D-3] State public charter school commission; establishment; ap-~~
pointment. (a) There is established the state public charter school commission with statewide chartering jurisdiction and authority. The commission shall be placed within the department for administrative purposes only. Notwithstanding section 302D-25 and any law to the contrary, the commission shall be subject to chapter 92.

(b) The mission of the commission shall be to authorize high-quality public charter schools throughout the State.

(c) The commission shall consist of nine members to be appointed by the board. The board shall appoint members who will be tasked with authorizing public charter schools that serve the unique and diverse needs of public school students. The chair of the commission shall be designated by the members of the commission for each school year beginning July 1, and whenever there is a vacancy. The board shall consider the combination of abilities, breadth of experiences, and characteristics of the commission, including but not limited to reflecting the diversity of the student population, geographical representation, and a broad representation of education-related stakeholders.

(d) Understanding that the role of the commission is to ensure a long-term strategic vision for Hawaii’s public charter schools, each nominee to the commission shall meet the following minimum qualifications:

- (1) Commitment to education. Each nominee’s record should demonstrate a deep and abiding interest in education, and a dedication to the social, academic, and character development of young people through the administration of a high performing charter school system;
 - (2) Record of integrity, civic virtue, and high ethical standards. Each nominee shall demonstrate integrity, civic virtue, and high ethical standards and be willing to hold fellow commission members to the same;
 - (3) Availability for constructive engagement. Each nominee shall commit to being a conscientious and attentive commission member; and
 - (4) Knowledge of best practices. Each nominee shall have an understanding of best practices in charter school educational governance or shall be willing to be trained in such.
- (e) Each nominee to the commission shall ideally meet the following recommended qualifications:
- (1) Experience governing complex organizations. Each nominee should possess experience with complex organizations, including but not limited to performance contract management, and a proven ability to function productively within them; and
 - (2) Collaborative leadership ability. Each nominee should have substantial leadership experience that ideally illustrates the nominee’s ability to function among diverse colleagues as an effective team member, with the ability to articulate, understand, and help shape consensus surrounding commission policies.

(f) Five members of the commission shall constitute a quorum to conduct business and a concurrence of at least five members shall be necessary to make any action of the commission valid.

(g) Commission members shall serve not more than three consecutive three-year terms, with each term beginning on July 1; provided that the initial terms that commence after June 30, 2012, shall be staggered as follows:

- (1) Three members, including the chairperson, to serve three-year terms;
- (2) Three members to serve two-year terms; and
- (3) Three members to serve one-year terms.

(h) Notwithstanding the terms of the members, the board may fill vacancies in the commission at any time when a vacancy occurs due to resignation, non-participation, the request of a majority of the commission members, or termination by the board for cause.

(i) Commission members shall receive no compensation. When commission duties require that a commission member take leave of the member's duties as a state employee, the appropriate state department shall allow the commission member to be placed on administrative leave with pay and shall provide substitutes, when necessary, to fulfill that member's departmental duties. Members shall be reimbursed for necessary travel expenses incurred in the conduct of official commission business.

(j) ~~[The commission shall establish operating procedures that shall include conflict of interest procedures for any member whose school of employment or governing board is before the commission.]~~ Commission members shall disclose to the commission a list of all charter schools in which the member is an employee, governing board member, vendor, contractor, agent, or representative. Any member having such a relationship to a charter school that comes before the commission shall be disqualified from voting on or participating in the discussion on that charter school.

(k) The commission shall operate with dedicated resources and staff qualified to execute the day-to-day responsibilities of the commission pursuant to this chapter.

(l) The commission shall have the power to hire staff without regard to chapters 76 and 89."

SECTION 5. Section 302D-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) An authorizer shall:

- (1) Act as the point of contact between the department and a public charter school it authorizes and be responsible for the administration of all applicable state and federal laws;
- (2) Be responsible for and ensure the compliance of a public charter school it authorizes with all applicable state and federal laws, including reporting requirements;
- (3) Be responsible for the receipt of applicable federal funds from the department and the distribution of funds to the public charter school it authorizes; and
- (4) Be responsible for the receipt of per-pupil funding from the department of budget and finance and distribution of the funding to the public charter school it authorizes."

SECTION 6. Section 302D-6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§302D-6]]~~ Principles and standards for charter authorizing. All authorizers shall be required to ~~[develop and maintain chartering policies and practices consistent with]~~ follow nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibility, including:

- (1) Organizational capacity and infrastructure;
- (2) Soliciting and evaluating charter applications;
- (3) Performance contracting;
- (4) Ongoing public charter school oversight and evaluation; and
- (5) Charter and charter contract renewal decision-making.

Authorizers shall carry out all their duties under this chapter in a manner consistent with nationally recognized principles and standards and with the spirit and intent of this chapter. Evidence of material or persistent failure to do so shall constitute grounds for losing charter authorizing powers.”

SECTION 7. Section 302D-12, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§302D-12]]~~ Charter school governing boards; powers and duties. (a) No more than ~~[thirty per cent]~~ one-third of the voting members of a governing board shall be employees of a school or relatives of employees of a school under the jurisdiction of that governing ~~[board; provided that the chief executive officer, chief administrative officer, executive director, or otherwise designated head of a charter school may serve as an ex officio, non-voting member of the governing]~~ board. In selecting members, consideration shall be given to persons who:

- (1) Provide the governing board with a diversity of perspective and a level of objectivity that accurately represent the interests of the charter school students and the surrounding community;
- (2) Demonstrate an understanding of best practices of non-profit governance; and
- (3) Possess strong financial and academic management and oversight abilities, as well as human resource and fundraising experience.

(b) No employee of a charter school or relative of an employee of a charter school may serve as the chair of the governing board of that charter school; provided that an authorizer may grant an exemption from the provisions of this subsection based upon a determination by the authorizer that an exemption is in the best interest of the charter school.

(c) The governing board shall be the independent governing body of its charter school and shall have oversight over and be responsible for the financial, organizational, and academic viability of the charter school, implementation of the charter, and the independent authority to determine the organization and management of the school, the curriculum, virtual education, and compliance with applicable federal and state laws. The governing board shall ensure its school complies with the terms of the charter contract between the authorizer and the school. The governing board shall have the power to negotiate supplemental collective bargaining agreements with the exclusive representatives of their employees.

(d) Governing boards and charter schools shall be exempt from chapter 103D, but shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices. Governing boards and charter schools are encouraged to use the provisions of chapter 103D wherever possible; provided that the use of one or more provisions of chapter 103D shall not constitute

a waiver of the exemption from chapter 103D and shall not subject the charter school to any other provision of chapter 103D.

(e) Charter schools and their governing boards shall be exempt from the requirements of chapters 91 and 92. The governing boards shall:

(1) Make available the notices and agendas of public meetings:

(A) At a publicly accessible area in the governing board's office and the authorizer's office so as to be available for review during regular business hours; and

(B) On the governing board's or charter school's internet website, if applicable, and the authorizer's internet website not less than six calendar days prior to the public meeting, unless a waiver is granted by the authorizer or authorizer's designee in the case of an emergency; and

(2) Make available the minutes from public meetings within thirty days and maintain a list of the current names and contact information of the governing board's members and officers:

(A) In the governing board's office and the authorizer's office so as to be available for review during regular business hours; and

(B) On the governing board's or charter school's internet website, if applicable, and the authorizer's internet website.

(f) All charter school employees and members of governing boards shall be subject to chapter 84.

(g) The State shall afford the governing board of any charter school the same protections as the State affords the board.

(h) For purposes of this section ~~["employees" shall]:~~

"Employees" shall include but not be limited to the chief executive officer, chief administrative officer, executive director, or otherwise designated head of a charter school[-] and shall include any person under an employment contract to serve as the chief executive officer, chief administrative officer, executive director, or designated head of a charter school.

"Relative" means a spouse, fiancé, or fiancée of the employee; any person who is related to the employee within four degrees of consanguinity; or the spouse, fiancé, or fiancée of such person.

(i) Whenever a charter school or governing board seeks to enter into a contract with a private organization, whether for-profit or nonprofit, to manage or operate the charter school, which contract requires the private organization to employ or otherwise provide the charter school with an individual to serve in the capacity of the chief executive officer, chief administrative officer, executive director, or designated head of the charter school, the charter school's governing board, in consultation with the state ethics commission, shall adopt standards of conduct that shall apply to the chief executive officer, chief administrative officer, executive director, or designated head of the charter school. The standards of conduct shall include provisions relating to gifts, fair treatment or misuse of position, and conflicts of interest, and shall be incorporated into and made part of any contract or arrangement between the charter school or governing board and the private organization for those services."

SECTION 8. Section 302D-13, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) The start-up charter school charter application process and schedule shall be determined by the authorizer, and shall provide for and include, at a minimum, the following elements:

(1) The submission of a letter of intent to operate a start-up charter school;

- (2) The ~~[timely transmittal]~~ availability of the charter application form and completion guidelines ~~[to] on the [governing board:]~~ authorizer's website;
 - (3) The timely submission of a completed charter application to the authorizer;
 - (4) The timely review of the charter application by the authorizer for completeness, and notification by the authorizer to the governing board that the charter application is complete;
 - (5) Upon receipt of a completed charter application, the ~~[convening of the commission, if applicable, by the commission chairperson to begin]~~ review and evaluation of the charter application~~[:]~~ by qualified persons;
 - (6) Following the ~~[submission]~~ review and evaluation of a charter application, ~~[issuance of a charter or]~~ approval or denial of the charter application by the authorizer ~~[or if submitted to the commission, by majority vote];~~
 - (7) A provision for a final date by which a decision to approve or deny a charter application must be made~~[:]~~ by the authorizer, upon receipt of a complete charter application; and
 - (8) A provision that no start-up charter school may begin operation before obtaining authorizer approval of its charter application and charter contract~~[-]~~ and fulfilling pre-opening requirements that may be imposed by the authorizer.
- (d) A charter application to become a start-up charter school shall meet the requirements of this subsection and section 302D-25. The charter application shall, at a minimum, include the following:
- (1) A description of employee rights and management issues and a framework for addressing those issues that protects the rights of employees;
 - (2) A plan for identifying, recruiting, and retaining highly qualified instructional faculty~~[:]~~ as defined by the department;
 - (3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist~~[:]~~ and complies with this chapter;
 - (4) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;
 - (5) A plan for the assessment of student, administrative support, and teaching personnel performance that:
 - (A) Recognizes the interests of the general public;
 - (B) Incorporates or exceeds the educational content and performance standards developed by the department for the public school system;
 - (C) Includes a system of faculty and staff accountability that holds faculty and staff individually and collectively accountable for their performance, and that is at least equivalent to the average system of accountability in public schools throughout the State; and
 - (D) Provides for program audits and annual financial audits;
 - (6) A governance structure for the charter school that incorporates a conflict of interest policy and a plan for periodic training to carry out the duties of governing board members;
 - (7) A description of the constitution of the governing board, terms of governing board members, and the process by which governing board members were selected;

- (8) A financial plan based on the most recent fiscal year's per-pupil charter school allocation that demonstrates the ability to meet the financial obligations of one-time, start-up costs and ongoing costs such as monthly payrolls, faculty recruitment, professional development, and facilities costs; and
- (9) A facilities plan."

SECTION 9. Section 302D-14, Hawaii Revised Statutes, is amended to read as follows:

"[[§302D-14]] Conversion charter schools; establishment. (a) A conversion charter school may be established pursuant to this section.

(b) Any department school, school community council, group of teachers, group of teachers and administrators, or nonprofit organization may submit a letter of intent to an authorizer to convert a department school to a charter school, establish a governing board as its governing body, and develop a charter application pursuant to subsection (d).

(c) The conversion charter school charter application process and schedule shall be determined by the authorizer, and shall provide for and include the following elements:

- (1) The submission of a letter of intent to convert to a charter school;
- (2) The ~~[timely transmittal]~~ availability of the charter application form and completion guidelines ~~[to]~~ on the [governing board's] authorizer's website;
- (3) The timely submission of a completed charter application to the authorizer; provided that the charter application shall include certification and documentation that the charter application was approved by a majority of the votes cast by existing administrative, support, and teaching personnel, and parents of students at the existing department school; provided that:
 - (A) This vote shall be considered by the authorizer to be the primary indication of the existing administrative, support, and teaching personnel, and parents' approval to convert to a charter school;
 - (B) The balance of stakeholders represented in the vote and the ~~[broad]~~ extent of support received in support of the conversion shall be [a] key ~~[factor in an authorizer's decision]~~ factors, along with the applicant's proposed plans, to be considered by the authorizer when deciding whether to award a charter; and
 - (C) A breakdown of the number of administrative, support, and ~~[teacher]~~ teaching personnel, and parents of students who constitute the existing department school and the number [that] who actually participated in the vote shall be provided to the authorizer;
- (4) The timely review of the charter application by the authorizer for completeness, and notification by the authorizer to the governing board that the charter application is complete;
- (5) Upon receipt of a completed charter application, the ~~[convening of the commission, if applicable, by the commission chairperson to begin]~~ review and evaluation of the charter application~~;~~ by qualified persons;
- (6) Following the ~~[submission]~~ review and evaluation of a charter application, ~~[issuance of a charter]~~ approval or denial of the charter

application by the authorizer [~~or if submitted to the commission, by majority vote~~];

- (7) A provision for a final date by which a decision of whether to approve or deny a charter application must be made by the authorizer, upon receipt of a complete charter application; and
- (8) A provision that no conversion charter school may begin operation before obtaining authorizer approval of its charter and charter contract~~[-]~~ and fulfilling pre-opening requirements that may be imposed by the authorizer.
- (d) A charter application to become a conversion charter school shall meet the requirements of this subsection and section 302D-25. The charter application shall include, at a minimum, the following:
 - (1) A description of employee rights and management issues and a framework for addressing those issues that protects the rights of employees;
 - (2) A plan for identifying, recruiting, and retaining highly qualified instructional faculty~~[-]~~, as defined by the department;
 - (3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist~~[-]~~, and complies with this chapter;
 - (4) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;
 - (5) A plan for the assessment of student, administrative support, and teaching personnel performance that:
 - (A) Recognizes the interests of the general public;
 - (B) Incorporates or exceeds the educational content and performance standards developed by the department for the public school system;
 - (C) Includes a system of faculty and staff accountability that holds faculty and staff individually and collectively accountable for their performance, and that is at least equivalent to the average system of accountability in public schools throughout the State; and
 - (D) Provides for program audits and annual financial audits;
 - (6) A governance structure for the charter school that incorporates a conflict of interest policy and a plan for periodic training to carry out the duties of governing board members;
 - (7) A description of the constitution of the governing board, terms of governing board members, and the process by which governing board members were selected;
 - (8) A financial plan based on the most recent fiscal year's per-pupil charter school allocation that demonstrates the ability to meet the financial obligations of one-time, start-up costs and ongoing costs such as monthly payrolls, faculty recruitment, professional development, and facilities costs; and
 - (9) A facilities plan.
- (e) A nonprofit organization may submit a letter of intent to an authorizer to convert a department school to a conversion charter school, operate and manage the school, establish a governing board as its governing body, and develop a charter application pursuant to subsection (d); provided that:
 - (1) As the governing body of the conversion charter school, the governing board shall be the board of directors of the nonprofit organization and shall not be selected pursuant to section 302D-12. The nonprofit organization may also appoint advisory groups of community representatives for each school managed by the nonprofit

organization; provided that these groups shall not have governing authority over the school and shall serve only in an advisory capacity to the nonprofit organization;

- (2) The charter application for each conversion charter school to be operated by the nonprofit organization shall be formulated, developed, and submitted by the nonprofit organization, and shall be approved by a majority of the votes cast by existing administrative, support, and teaching personnel, and parents of [the] students of the existing department school; provided that:

- (A) This vote shall be considered by the authorizer to be the primary indication of the existing administrative, support, and teaching personnel, and parents' approval to convert to a charter school;

- (B) The balance of stakeholders represented in the vote and the [broad] extent of support received in support of the conversion shall be a key factor, along with the applicant's proposed plans, in an authorizer's decision to award a charter; and

- (C) A breakdown of the number of administrative, support, and [teacher] teaching personnel, and parents of students who constitute the existing department school and the number [that] who actually participated in the vote shall be provided to the authorizer;

- (3) The board of directors of the nonprofit organization, as the governing body for the conversion charter school that it operates and manages, shall have the same protections that are afforded to the board in its role as the conversion charter school governing body;

- (4) Any conversion charter school that is managed and operated by a nonprofit organization shall be eligible for the same federal and state funding as other public schools; provided that ~~[the nonprofit organization makes a minimum annual]~~ nothing in this section shall prohibit a nonprofit organization from making a contribution [of \$1 per pupil] toward the operation of a conversion charter school [for every \$4 per pupil allocated by the department of budget and finance for the operation of the conversion charter school; provided further that in no event shall the nonprofit organization be required to contribute more than the total required contribution per pupil per year. As used in this paragraph, "total required contribution" means:

- (A) \$1,650 for school years 2012-2013 through 2015-2016; and
- (B) \$1,815 for school years 2016-2017 through 2020-2021]; and

- (5) If, at any time, the board of directors of the nonprofit organization governing the conversion charter school votes to discontinue its relationship with the charter school, the charter school may submit a revised charter application to the authorizer to continue as a conversion charter school without the participation of the nonprofit organization.

- (f) Any nonprofit organization that seeks to manage or operate a conversion charter school as provided in subsection (e) shall comply with the following at the time of charter application:

- (1) Have bylaws or policies that describe the manner in which business is conducted and policies that relate to the management of potential conflict of interest situations;

- (2) Have experience in the management and operation of public or private schools or, to the extent necessary, agree to obtain appropriate services from another entity or entities possessing such experience;
- (3) Comply with all applicable federal, state, and county laws, including licensure or accreditation, as applicable; and
- (4) Comply with any other requirements prescribed by the department to ensure adherence with applicable federal, state, and county laws, and the purposes of this chapter.

(g) Any public school or schools, programs, or sections of existing public school populations that are part of a separate Hawaiian language immersion program using existing public school facilities may submit a letter of intent to an authorizer to form a conversion charter school pursuant to this section.

(h) In reviewing a charter application for a charter under this section, an authorizer shall take into consideration the constitution of the applicant's governing board, terms of governing board members, and the process by which governing board members were selected.

(i) In the event of a conflict between the provisions in this section and other provisions in this chapter, this section shall control.

~~[(j) Any applicant whose charter application is denied by the authorizer shall not be allowed to amend or resubmit the charter application to the authorizer during a given cycle, as defined by the authorizer, except as provided in subsection (e)(5); provided that an applicant shall have the right to appeal the authorizer's denial of its charter application pursuant to section 302D-15.~~

~~(k)~~ (j) In reviewing charter applications for a charter under this section, an authorizer shall develop a schedule to approve or deny a charter application by the end of the calendar year for purposes of meeting any deadlines to request funding from the legislature."

SECTION 10. Section 302D-15, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~302D-15] Appeals; charter applications, ~~[reauthorizations,]~~ renewals, or revocations. (a) The board shall have the power to decide appeals of decisions by an authorizer to deny the approval of a charter application, deny ~~[reauthorization]~~ renewal of a charter ~~[school,]~~ contract, or revoke a charter school's charter~~[-]~~ contract. An appeal shall be filed with the board within twenty-one calendar days of the receipt of the notification of denial or revocation. Only a party whose charter application has been denied, whose ~~[reauthorization]~~ charter contract renewal has been denied, or whose charter contract has been revoked may initiate an appeal under this section for cause. The board shall review an appeal and issue a final decision within sixty calendar days of the filing of the appeal. ~~[The board may adopt applicable rules and procedures pursuant to chapter 91 for implementing the appeals process.]~~

(b) The board shall serve as the final arbitrator of appeals authorized by subsection (a).

(c) A party shall not be entitled to a hearing before the board under this section until it has exhausted all available administrative remedies.

(d) The board shall adopt rules pursuant to chapter 91 to implement this section."

SECTION 11. Section 302D-16, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The performance provisions within the charter contract shall be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures, and metrics that will guide the authorizer’s evaluations of each public charter school. The performance framework, as established by the authorizer, shall include indicators, measures, and metrics for, at a minimum:

- (1) Student academic proficiency;
 - (2) Student academic growth;
 - (3) Achievement gaps in proficiency and growth between major student subgroups;
 - (4) Attendance;
 - (5) ~~[Recurrent enrollment from year to year;]~~ Enrollment variance;
 - (6) Postsecondary readiness, as applicable for high schools;
 - (7) Financial performance and sustainability;
 - (8) Performance and stewardship, including compliance with all applicable laws, rules, and terms of the charter contract; and
 - (9) Organizational viability.”
2. By amending subsection (d) to read:

“(d) The performance framework shall require the disaggregation of all student performance data by major student subgroups, ~~[including gender, race, poverty status, special education status, English as a second language status, and gifted and talented status;]~~ as determined by the board.”

SECTION 12. Section 302D-18, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (b) and (c) to read:

“(b) ~~[No later than September 1, the]~~ The authorizer shall issue a charter school performance report and charter contract renewal application guidance to any charter school whose charter contract will expire the following year. The performance report shall summarize the charter school’s performance record to date, based on the data required by this chapter and the charter contract, and shall provide notice of any weaknesses or concerns perceived by the authorizer concerning the charter school that may jeopardize its position in seeking renewal ~~[if not timely rectified. The charter school shall have thirty days to respond to the performance report and submit any corrections or clarifications for the report].~~

(c) The renewal application guidance shall, at a minimum, provide an opportunity for the public charter school to:

- (1) Submit any corrections or clarifications to the performance report;
- ~~[(1)]~~ (2) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal;
- ~~[(2)]~~ (3) Describe improvements undertaken or planned for the school; and
- ~~[(3)]~~ (4) Detail the charter school’s plans for the next charter term.”

2. By amending subsection (e) to read:

“(e) No later than ~~[March 1,]~~ thirty days after the issuance of the performance report, the governing board of a charter school seeking renewal shall submit a renewal application to the authorizer pursuant to the renewal guidance issued by the authorizer. The authorizer shall decide whether or not to renew the charter no later than forty-five days after the filing of the renewal application.”

3. By amending subsections (h), (i), and (j) to read:

“(h) An authorizer shall develop revocation and non-renewal processes that:

- (1) Provide ~~[the]~~ charter contract holders with a timely notification of the prospect of revocation or non-renewal and the reasons for such possible closure;
- (2) Allow ~~[the]~~ charter contract holders a reasonable amount of time in which to prepare a response;
- (3) Provide ~~[the]~~ charter contract holders with an opportunity to submit documents and give testimony challenging the rationale for closure and supporting the continuation of the school at an orderly proceeding held for that purpose;
- (4) Allow charter contract holders access to representation by counsel, subject to section 28-8.3, and to call witnesses on their behalf;
- (5) Permit the recording of proceedings described in paragraph (3); and
- (6) After a reasonable period for deliberation, require a final determination to be made and conveyed in writing to the charter contract holders.

(i) If an authorizer revokes or does not renew a charter~~;~~ contract, the authorizer shall clearly state in writing the reasons for the revocation or nonrenewal.

(j) Within fifteen days of taking action to renew, not to renew, or to revoke a charter~~;~~ contract, the authorizer shall report to the board the action taken, and shall simultaneously provide a copy of the report to the charter school. The report shall set forth the action taken and reasons for the decision and assurances as to compliance with all the requirements set forth in this chapter.”

SECTION 13. Section 302D-21, Hawaii Revised Statutes, is amended to read as follows:

“~~[[[§302D-21]]]~~ Annual board report. No later than twenty days prior to the convening of each regular session of the legislature, the board shall issue to the governor, the legislature, and the public, an annual report on the State’s public charter schools, drawing from the annual reports submitted by every authorizer, as well as any additional relevant data compiled by the board, for the school year ending in the preceding calendar year. The annual report shall include:

- (1) A comparison of the performance of public charter school students with the performance of ~~[academically, ethnically, geographically, and economically comparable groups]~~ comparable subgroups of students in public schools governed by chapter 302A;
- (2) The board’s assessment of the successes, challenges, and areas for improvement in meeting the purposes of this chapter, including the board’s assessment of the sufficiency of funding for public charter schools, and any suggested changes in state law or policy necessary to strengthen the State’s public charter schools;
- (3) A line-item breakdown of all federal funds received by the department and distributed to authorizers;
- (4) Any concerns regarding equity and recommendations to improve access to and distribution of federal funds to public charter schools; and
- (5) A discussion of all board policies adopted in the previous year, including a detailed explanation as to whether each policy is or is not applicable to charter schools.”

SECTION 14. Section 302D-31, Hawaii Revised Statutes, is amended to read as follows:

~~“[§§302D-31] Sports.] Athletics.~~ The department shall provide students at charter schools, including students enrolled at charter schools whose curriculum incorporates virtual education, with the same opportunity to participate in athletics as is provided to students at other public schools. If a student at [a] any charter school wishes to participate in a sport for which there is no program at the charter school, the department shall allow that student to participate in a comparable program of any public school in the complex in which the charter school is located[;] or at the public school in the service area in which the student resides. All charter school students participating in athletics shall abide by all rules, regulations, and policies of the athletic league, association, and program applicable to the public school in whose athletic program the student is participating.”

SECTION 15. Section 378-2.5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Notwithstanding subsections (b) and (c), the requirement that inquiry into and consideration of a prospective employee’s conviction record may take place only after the individual has received a conditional job offer, and the limitation to the most recent ten-year period, excluding the period of incarceration, shall not apply to employers who are expressly permitted to inquire into an individual’s criminal history for employment purposes pursuant to any federal or state law other than subsection (a), including:

- (1) The State or any of its branches, political subdivisions, or agencies pursuant to sections 78-2.7 and 831-3.1;
- (2) The department of education pursuant to section 302A-601.5;
- (3) The department of health with respect to employees, providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health services pursuant to section 321-171.5;
- (4) The judiciary pursuant to section 571-34;
- (5) The counties pursuant to section 846-2.7(b)(5), ~~[(32);]~~ (33), (34), ~~[and] (35)[;], and (36);~~
- (6) Armed security services pursuant to section 261-17(b);
- (7) Providers of a developmental disabilities domiciliary home pursuant to section 333F-22;
- (8) Private schools pursuant to sections 302C-1 and 378-3(8);
- (9) Financial institutions in which deposits are insured by a federal agency having jurisdiction over the financial institution pursuant to section 378-3(9);
- (10) Detective agencies and security guard agencies pursuant to sections 463-6(b) and 463-8(b);
- (11) Employers in the business of insurance pursuant to section 431:2-201.3;
- (12) Employers of individuals or supervisors of individuals responsible for screening passengers or property under Title 49 United States Code section 44901 or individuals with unescorted access to an aircraft of an air carrier or foreign carrier or in a secured area of an airport in the United States pursuant to Title 49 United States Code section 44936(a);
- (13) The department of human services pursuant to sections 346-97 and 352-5.5;
- (14) The public library system pursuant to section 302A-601.5;
- (15) The department of public safety pursuant to section 353C-5;

- (16) The board of directors of a cooperative housing corporation or the manager of a cooperative housing project pursuant to section 4211-12;
- (17) The board of directors of an association of owners under chapter 514A or 514B, or the manager of a condominium project pursuant to section 514A-82.1 or 514B-133; and
- (18) The department of health pursuant to section 321-15.2.”

SECTION 16. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Criminal history record checks may be conducted by:

- (1) The department of health or the department’s designee on operators of adult foster homes or developmental disabilities domiciliary homes and their employees, as provided by section 333F-22;
- (2) The department of health or the department’s designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health services as provided by section 321-171.5;
- (3) The department of health or the department’s designee on all applicants for licensure for, operators for, prospective employees, and volunteers at one or more of the following: skilled nursing facility, intermediate care facility, adult residential care home, expanded adult residential care home, assisted living facility, home health agency, hospice, adult day health center, special treatment facility, therapeutic living program, intermediate care facility for individuals with intellectual disabilities, hospital, rural health center and rehabilitation agency, and, in the case of any of the above facilities operating in a private residence, on any adult living in the facility other than the client as provided by section 321-15.2;
- (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
- (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
- (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
- (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
- (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;
- (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
- (10) The department of human services on applicants to operate child care facilities, prospective employees of the applicant, and new employees of the provider after registration or licensure as provided by section 346-154;
- (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;

- (12) The department of human services on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in foster family homes as provided by section 346-335;
- (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
- (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
- (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
- (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;
- (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
- (18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;
- (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;
- (20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
- (21) The department of human services on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 346-97;
- (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult and community care services branch, as provided by section 346-97;
- (23) The department of human services on foster grandparent program, retired and senior volunteer program, senior companion program, and respite companion program participants as provided by section 346-97;
- (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, Title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;

- (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;
- (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
- (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;
- (28) The department of commerce and consumer affairs on:
 - (A) Each principal of every non-corporate applicant for a money transmitter license; and
 - (B) The executive officers, key shareholders, and managers in charge of a money transmitter's activities of every corporate applicant for a money transmitter license, as provided by section 489D-9;
- (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;
- (30) The Hawaii health systems corporation on:
 - (A) Employees;
 - (B) Applicants seeking employment;
 - (C) Current or prospective members of the corporation board or regional system board; or
 - (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;
- (31) The department of commerce and consumer affairs on:
 - (A) An applicant for a mortgage loan originator license; and
 - (B) Each control person, executive officer, director, general partner, and manager of an applicant for a mortgage loan originator company license, as provided by chapter 454F;
- (32) The state public charter school commission or public charter schools on employees, teacher trainees, prospective employees, and prospective teacher trainees in any public charter school for any position that places them in close proximity to children, as provided in section 302D-B;
- [(32)] (33) The counties on prospective employees who work with vulnerable adults or senior citizens in community-based programs;
- [(33)] (34) The counties on prospective employees for fire department positions which involve contact with children or dependent adults;
- [(34)] (35) The counties on prospective employees for emergency medical services positions which involve contact with children or dependent adults;
- [(35)] (36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable and disabled citizens during emergencies or crises; and
- [(36)] (37) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law."

SECTION 17. Section 302D-22, Hawaii Revised Statutes, is repealed.

SECTION 18. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 19. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 20. This Act shall take effect upon its approval.

(Approved June 21, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 160

S.B. NO. 1193

A Bill for an Act Relating to Section 237-24.3, Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The exemption from Hawaii's general excise tax provided for in section 237-24.3(2)(C), Hawaii Revised Statutes, was originally designed to incentivize the purchase of food from local agricultural sources, but has not resulted in such an incentive. The exemption, in its original form, was held to be unconstitutional in *In the Matter of the Tax Appeal of Hawaiian Flour Mills, Inc.*, 76 Haw. 1, 868 P.2d 419 (1994), and was amended in 2003 to repair the constitutional fault. However, in its present form, the exemption may apply to any person selling any food to common carriers for consumption out of state. Such a broad exemption defeats the exemption's original purpose and provides an unneeded tax break to common carriers and the catering companies that serve those common carriers.

SECTION 2. Section 237-24.3, Hawaii Revised Statutes, is amended to read as follows:

"§237-24.3 Additional amounts not taxable. In addition to the amounts not taxable under section 237-24, this chapter shall not apply to:

- (1) Amounts received from the loading, transportation, and unloading of agricultural commodities shipped for a producer or produce dealer on one island of this State to a person, firm, or organization on another island of this State. The terms "agricultural commodity", "producer", and "produce dealer" shall be defined in the same manner as they are defined in section 147-1; provided that agricultural commodities need not have been produced in the State;
- (2) ~~Amounts received from sales of:~~
 - (A) ~~Intoxicating liquor as the term "liquor" is defined in chapter 244D;~~
 - (B) ~~Cigarettes and tobacco products as defined in chapter 245; and~~
 - (C) ~~Agricultural, meat, or fish products;~~

- ~~to any person or common carrier in interstate or foreign commerce, or both, whether ocean-going or air, for consumption out of state on the shipper's vessels or airplanes;~~
- (3) (2) Amounts received by the manager, submanager, or board of directors of:
- (A) An association of owners of a condominium property regime established in accordance with chapter 514A or 514B; or
 - (B) A nonprofit homeowners or community association incorporated in accordance with chapter 414D or any predecessor thereto and existing pursuant to covenants running with the land,
- in reimbursement of sums paid for common expenses;
- (4) (3) Amounts received or accrued from:
- (A) The loading or unloading of cargo from ships, barges, vessels, or aircraft, whether or not the ships, barges, vessels, or aircraft travel between the State and other states or countries or between the islands of the State;
 - (B) Tugboat services including pilotage fees performed within the State, and the towage of ships, barges, or vessels in and out of state harbors, or from one pier to another; and
 - (C) The transportation of pilots or governmental officials to ships, barges, or vessels offshore; rigging gear; checking freight and similar services; standby charges; and use of moorings and running mooring lines;
- (5) (4) Amounts received by an employee benefit plan by way of contributions, dividends, interest, and other income; and amounts received by a nonprofit organization or office, as payments for costs and expenses incurred for the administration of an employee benefit plan; provided that this exemption shall not apply to any gross rental income or gross rental proceeds received after June 30, 1994, as income from investments in real property in this State; and provided further that gross rental income or gross rental proceeds from investments in real property received by an employee benefit plan after June 30, 1994, under written contracts executed prior to July 1, 1994, shall not be taxed until the contracts are renegotiated, renewed, or extended, or until after December 31, 1998, whichever is earlier. For the purposes of this paragraph, "employee benefit plan" means any plan as defined in section 1002(3) of title 29 of the United States Code, as amended;
- (6) (5) Amounts received for purchases made with United States Department of Agriculture food coupons under the federal food stamp program, and amounts received for purchases made with United States Department of Agriculture food vouchers under the Special Supplemental Foods Program for Women, Infants and Children;
- (7) (6) Amounts received by a hospital, infirmary, medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual; provided that this paragraph shall not apply to any amounts received for services provided in selling prescription drugs or prosthetic devices. As used in this paragraph: "Prescription drugs" are those drugs defined under section 328-1 and dispensed by filling or refilling a written or oral prescription by a practitioner licensed under law to administer the drug and sold by

a licensed pharmacist under section 328-16 or practitioners licensed to administer drugs; and

"Prosthetic device" means any artificial device or appliance, instrument, apparatus, or contrivance, including their components, parts, accessories, and replacements thereof, used to replace a missing or surgically removed part of the human body, which is prescribed by a licensed practitioner of medicine, osteopathy, or podiatry and which is sold by the practitioner or which is dispensed and sold by a dealer of prosthetic devices; provided that "prosthetic device" shall not mean any auditory, ophthalmic, dental, or ocular device or appliance, instrument, apparatus, or contrivance;

~~[(8)]~~ (7) Taxes on transient accommodations imposed by chapter 237D and passed on and collected by operators holding certificates of registration under that chapter;

~~[(9)]~~ (8) Amounts received as dues by an unincorporated merchants association from its membership for advertising media, promotional, and advertising costs for the promotion of the association for the benefit of its members as a whole and not for the benefit of an individual member or group of members less than the entire membership;

~~[(10)]~~ (9) Amounts received by a labor organization for real property leased to:

(A) A labor organization; or

(B) A trust fund established by a labor organization for the benefit of its members, families, and dependents for medical or hospital care, pensions on retirement or death of employees, apprenticeship and training, and other membership service programs.

As used in this paragraph, "labor organization" means a labor organization exempt from federal income tax under section 501(c)(5) of the Internal Revenue Code, as amended;

~~[(11)]~~ (10) Amounts received from foreign diplomats and consular officials who are holding cards issued or authorized by the United States Department of State granting them an exemption from state taxes; and

~~[(12)]~~ (11) Amounts received as rent for the rental or leasing of aircraft or aircraft engines used by the lessees or renters for interstate air transportation of passengers and goods. For purposes of this paragraph, payments made pursuant to a lease shall be considered rent regardless of whether the lease is an operating lease or a financing lease. The definition of "interstate air transportation" is the same as in 49 U.S.C. section 40102."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon approval and shall apply to taxable years beginning after December 31, 2013; provided that the amendments made to section 237-24.3, Hawaii Revised Statutes, in section 2 of this Act shall not be repealed when section 237-24.3, Hawaii Revised Statutes, is reenacted on December 31, 2014, in the form in which it read on December 31, 2007, pursuant to section 4 of Act 239, Session Laws of Hawaii 2007, as amended by section 5 of Act 196, Session Laws of Hawaii 2009, and section 1 of Act 91, Session Laws of Hawaii 2010.

(Approved June 21, 2013.)

ACT 161

S.B. NO. 1194

A Bill for an Act Relating to Transient Accommodations Tax.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 237D-2, Hawaii Revised Statutes, is amended to read as follows:

“§237D-2 Imposition and rates. (a) There is levied and shall be assessed and collected each month a tax of:

- (1) Five per cent for the period beginning on January 1, 1987, to June 30, 1994;
- (2) Six per cent for the period beginning on July 1, 1994, to December 31, 1998; ~~[and]~~
- (3) 7.25 per cent for the period beginning on January 1, 1999, ~~[and thereafter;]~~ to June 30, 2009;
- (4) 8.25 per cent for the period beginning on July 1, 2009, to June 30, 2010; and
- (5) 9.25 per cent for the period beginning on July 1, 2010, and thereafter;

on the gross rental or gross rental proceeds derived from furnishing transient accommodations.

~~[(b) There is levied and shall be assessed and collected each month an additional:~~

- ~~(1) One per cent for the period beginning July 1, 2009, to June 30, 2010; and~~

~~(2) Two per cent for the period beginning July 1, 2010, to June 30, 2015; on the gross rental or gross rental proceeds derived from furnishing transient accommodations. The rate levied and assessed under this subsection shall be additional to the rate levied and assessed under subsection (a)(3);~~

~~(c) There is levied and shall be assessed and collected each month a daily tax of \$10 for every transient accommodation that is furnished on a complimentary or gratuitous basis, or otherwise at no charge, including transient accommodations furnished as part of a package.~~

~~[(d)] (b) Every operator shall pay to the State the tax imposed by [subsections] subsection (a) [; (b), and (c), as applicable], as provided in this chapter.~~

~~[(e)] (c) There is levied and shall be assessed and collected each month, on the occupant of a resort time share vacation unit, a transient accommodations tax of 7.25 per cent on the fair market rental value.~~

~~[(f)] (d) Every plan manager shall be liable for and pay to the State the transient accommodations tax imposed by subsection [(e)] (c) as provided in this chapter. Every resort time share vacation plan shall be represented by a plan manager who shall be subject to this chapter.”~~

SECTION 2. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

~~“(b) Revenues collected under this chapter [except for revenues collected under section 237D-2(b),] shall be distributed as follows, with the excess revenues to be deposited into the general fund:~~

- ~~(1) [17.3 per cent of the revenues collected under this chapter] \$33,000,000 shall be [deposited into] allocated to the convention center enterprise special fund established under section 201B-8; [provided that beginning January 1, 2002, if the amount of revenue collected under this paragraph exceeds \$33,000,000 in any fiscal~~

year, revenues collected in excess of \$33,000,000 shall be deposited into the general fund;]

- (2) ~~[34.2 per cent of the revenues collected under this chapter] \$82,000,000 shall be [deposited into] allocated to the tourism special fund established under section 201B-11 [for tourism promotion and visitor industry research; provided that for any period beginning on July 1, 2012, and ending on June 30, 2015, no more than \$71,000,000 per fiscal year shall be deposited into the tourism special fund established under section 201B-11; provided further]; provided that [beginning]:~~

(A) Beginning on July 1, 2012, and ending on June 30, 2015, \$2,000,000 shall be expended from the tourism special fund for development and implementation of initiatives to take advantage of expanded visa programs and increased travel opportunities for international visitors to Hawaii; [and provided further that beginning on July 1, 2002, of the first \$1,000,000 in revenues deposited:

(A) Ninety per cent shall be deposited into the state parks special fund established in section 184-3.4; and

(B) Ten per cent shall be deposited into the special land and development fund established in section 171-19 for the Hawaii statewide trail and access program;

provided that of]

(B) Of the [34.2 per cent,] \$82,000,000 allocated:

(i) \$1,000,000 shall be allocated for the operation of a Hawaiian center and the museum of Hawaiian music and dance at the Hawaii convention center; and

(ii) 0.5 per cent of the \$82,000,000 shall be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan 2005-2015; [provided further that of] and

(C) Of the revenues remaining in the tourism special fund after revenues have been deposited as provided in this paragraph and except for any sum authorized by the legislature for expenditure from revenues subject to this paragraph, beginning July 1, 2007, funds shall be deposited into the tourism emergency trust fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency trust fund; [and]

- (3) ~~[44.8 per cent of the revenues collected under this chapter] \$93,000,000 shall be [transferred] allocated as follows: Kauai county shall receive 14.5 per cent, Hawaii county shall receive 18.6 per cent, city and county of Honolulu shall receive 44.1 per cent, and Maui county shall receive 22.8 per cent; [provided that for any period beginning on July 1, 2011, and ending on June 30, 2015, the total amount transferred to the counties shall not exceed \$93,000,000 per fiscal year.] and~~

- (4) Of the excess revenues deposited into the general fund pursuant to this subsection, \$3,000,000 shall be allocated subject to the mutual agreement of the board of land and natural resources and the board of directors of the Hawaii tourism authority in accordance with the Hawaii tourism authority strategic plan for:

- (A) The protection, preservation, and enhancement of natural resources important to the visitor industry;
- (B) Planning, construction, and repair of facilities; and
- (C) Operation and maintenance costs of public lands connected with enhancing the visitor experience.

[Revenues collected under section 237D-2(b) shall be deposited into the general fund.] All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection.

As used in this subsection, “fiscal year” means the twelve-month period beginning on July 1 of a calendar year and ending on June 30 of the following calendar year.”

SECTION 3. Act 61, Session Laws of Hawaii 2009, is amended by amending section 4 to read as follows:

“SECTION 4. This Act shall take effect on July 1, 2009~~], and shall be repealed on June 30, 2015; provided that sections 237D-2 and 237D-6.5, Hawaii Revised Statutes, shall be reenacted in the form in which they read on June 30, 2009].~~”

SECTION 4. Act 103, Session Laws of Hawaii 2011, is amended by amending section 4 to read as follows:

“SECTION 4. This Act shall take effect on July 1, 2011~~]; provided that section 2 of this Act shall be repealed on June 30, 2015, and section 237D-6.5, Hawaii Revised Statutes, shall be reenacted in the form in which it read on June 30, 2009, pursuant to Act 61, Session Laws of Hawaii 2009].~~”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

Note

1. Should be underscored.

ACT 162

S.B. NO. 1196

A Bill for an Act Relating to Cash Economy Enforcement.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 231-96, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) It shall be unlawful ~~[to conduct more than ten taxable business transactions per day]~~ for any person doing business under chapter 237, other than casual sales, to conduct any transaction in cash and fail to:

- (1) Offer a receipt or other record of the transaction; and
- (2) Maintain a contemporaneously generated record of all business transactions conducted each day,

whether handwritten or generated by a manually operated or electronic cash register. Each day a person is in violation of this section shall be treated as a separate violation.”

ACT 163

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

ACT 163

S.B. NO. 1360

A Bill for an Act Relating to General Excise Tax.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 239, Session Laws of Hawaii 2007, section 4, as amended by Act 196, Session Laws of Hawaii 2009, section 5, as amended by Act 91, Session Laws of Hawaii 2010, section 1 is amended to read as follows:

~~“SECTION 4. This Act shall take effect on January 1, 2008[; provided that this Act shall be repealed on December 31, 2014, and section 237-24.3, Hawaii Revised Statutes, and section 237-24.7, Hawaii Revised Statutes, shall be reenacted in the form in which they read on December 31, 2007].”~~

SECTION 2. Act 196, Session Laws of Hawaii 2009, section 6, as amended by Act 91, Session Laws of Hawaii 2010, section 2, is amended to read as follows:

“SECTION 6. The aggregate amount of tax exempted by the amendment to section 237-24.7(1) in section 2 of Act 239, Session Laws of Hawaii 2007, shall not exceed \$400,000 per calendar year[; provided that this section shall be repealed on December 31, 2012].”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that section 2 shall apply to taxable years beginning after December 31, 2012.

(Approved June 21, 2013.)

ACT 164

S.B. NO. 933

A Bill for an Act Relating to the TRICARE Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that, pursuant to the authority granted by Congress under title 10 United States Code section 1071 et seq., the United States Department of Defense established the TRICARE program as the managed care component of the military health system. The TRICARE program is a federal government program that provides health care services to over nine million Americans, composed of active duty, reserve, and retired members of the United States uniformed services, their family members, and survivors, including

approximately one hundred fifty thousand current and former service members and their family members who reside in Hawaii.

The legislature further finds that the purpose and mission of the TRICARE program is to ensure the availability of high-quality, low-cost health care services to members of the uniformed services and their families, which is crucial to ensuring military readiness, national defense, and the health and welfare of the residents of the State.

The TRICARE program augments the health care services provided by the United States Department of Defense personnel at military treatment facilities. TRICARE is a program of the Department of Defense, TRICARE management activity, which contracts with third-party administrators, known as “managed care support contractors”, to establish and maintain networks of TRICARE-authorized civilian health care providers in various regions of the United States. On behalf of the United States Department of Defense, managed care support contractors make advances to health care providers, including doctors, hospitals, and other providers, for costs of health care services provided to TRICARE beneficiaries. The United States Department of Defense reimburses managed care support contractors for the actual cost or advancement made to third-party health care providers.

In 2009, the legislature recognized that some uncertainty existed about whether the amounts received by a managed care support contractor of the TRICARE program for the actual cost or advancement to third-party health care providers, on behalf of the federal government, are subject to the state general excise tax. In order to avoid increasing the costs of health care services delivered through the TRICARE program and any adverse consequences to members of our uniformed services and their families from the increased costs, Act 70, Session Laws of Hawaii 2009, clarified that the amounts received by a managed care support contractor of the TRICARE program are not subject to the state general excise tax.

The purpose of this Act is to extend the state general excise tax exclusion for the amounts received by a managed care support contractor of the TRICARE program for the actual cost or advancement to third-party health care providers, pursuant to a contract with the United States for the administration of the TRICARE program.

SECTION 2. Act 70, Session Laws of Hawaii 2009, is amended by amending section 4 to read as follows:

“SECTION 4. This Act shall take effect on July 1, 2009, and shall be repealed as of December 31, [2013;] 2018; provided that section 237-24, Hawaii Revised Statutes, shall be reenacted in the form in which it read on June 30, 2009.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

A Bill for an Act Relating to Securities Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 485A-102, Hawaii Revised Statutes, is amended by amending the definition of "security" to read as follows:

"Security" means a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; variable annuity contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; in general, an interest or instrument commonly known as a "security"; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. The term:

- (1) Includes both a certificated and an uncertificated security;
- (2) Does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed sum of money either in a lump sum or periodically for life or other specified period;
- (3) Does not include an interest in a contributory or noncontributory pension or welfare plan subject to the Employee Retirement Income Security Act of 1974;
- (4) Includes any contractual or quasi-contractual arrangement pursuant to which:
 - (A) A person furnishes value, other than services, to an offeror;
 - (B) A portion of that value is subjected to the risk of the offeror's enterprise;
 - (C) The furnishing of that value is induced by the representations of an offeror which gives give rise to a reasonable understanding that a valuable benefit will accrue to the offeree as a result of the operation of the enterprise; and
 - (D) The offeree does not ~~intend to be actively involved in the~~ receive the right to exercise practical and actual control over the management of the enterprise in a meaningful way; and
- (5) Includes as an "investment contract", among other contracts, an interest in a limited partnership and a limited liability company and an investment in a viatical settlement or similar agreement."

SECTION 2. Section 485A-402, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The following individuals are exempt from the registration requirement of subsection (a):

- (1) An individual who represents a broker-dealer in effecting transactions in this State limited to those described in section ~~15(h)(2)~~ 15(i)(3) of the Securities Exchange Act of 1934 ~~[(15 U.S.C. 78(e)(2));]~~ (15 U.S.C. 78o(i)(3)), relating to de minimis transactions by associated persons;

- (2) An individual who represents a broker-dealer that is exempt under section 485A-401(b) or 485A-401(d);
- (3) An individual who represents an issuer with respect to an offer or sale of the issuer's own securities or those of the issuer's parent company or any of the issuer's subsidiaries, and who is not compensated in connection with the individual's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities;
- (4) An individual who represents an issuer and who effects transactions in the issuer's securities exempted by section 485A-202, other than section 485A-202(a)(10) and (13);
- (5) An individual who represents an issuer that effects transactions solely in federal covered securities of the issuer; provided that an individual who effects transactions in a federal covered security under section 18(b)(3) or 18(b)(4)(D) of the Securities Act of 1933 (15 U.S.C. 77r(b)(3) or 77r(b)(4)(D)) is not exempt if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities;
- (6) An individual who represents a broker-dealer registered in this State under section 485A-401(a) or exempt from registration under section 485A-401(b) in the offer and sale of securities for an account of a nonaffiliated federal covered investment adviser with investments under management in excess of \$100,000,000 acting for the account of others pursuant to discretionary authority in a signed record;
- (7) An individual who represents an issuer in connection with the purchase of the issuer's own securities;
- (8) An individual who represents an issuer and who restricts participation to performing clerical or ministerial acts; or
- (9) Any other individual exempted by rule adopted or order issued under this chapter."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 21, 2013.)

ACT 166

S.B. NO. 1067

A Bill for an Act Relating to Escrow Depositories.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 449, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§449- Powers of commissioner. In addition to any other powers provided by law, the commissioner may:

- (1) Administer and enforce the provisions and requirements of this chapter;
- (2) Adopt, amend, or repeal rules or declaratory rulings pursuant to chapter 91 to effectuate the purposes of this chapter;

- (3) Issue informal nonbinding interpretations to effectuate the purposes of this chapter;
- (4) Investigate and conduct hearings regarding any violation of this chapter or any rule or order of the commissioner;
- (5) Contract with or employ qualified persons, including investigators, examiners, or auditors who shall be exempt from chapter 76 and who shall assist the commissioner in exercising the commissioner's powers and duties;
- (6) Deposit all fees, fines, and charges collected by the commissioner under this chapter into the compliance resolution fund established pursuant to section 26-9(o);
- (7) Process and investigate complaints, subpoena witnesses and documents, administer oaths, and receive affidavits and oral testimony, including through electronic means, and conduct contested case proceedings; and
- (8) Report any violation of this chapter or violation of federal or state law to the United States Commissioner of Housing and Urban Development or any other federal agency having jurisdiction over the licensee."

SECTION 2. Section 449-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"“Branch office” means any location, separate from the principal place of business of the escrow depository, that is identified by any means to the public or customers as a location at which the licensee holds itself out as an escrow depository.”

SECTION 3. Section 449-4, Hawaii Revised Statutes, is amended to read as follows:

“§449-4 Administrative penalty. (a) Any person who [wilfully] violates any of the provisions of this chapter, shall be subject to an administrative fine of a maximum of \$5,000 for each violation. The commissioner may impose an administrative fine on a licensee or person subject to this chapter if the commissioner finds on the record after notice and opportunity for hearing that the licensee or person subject to this chapter has violated or failed to comply with any requirement of this chapter or any rule prescribed by the commissioner under this chapter or order issued under the authority of this chapter.

(b) Each violation under this chapter or failure to comply with any directive or order of the commissioner shall be a separate and distinct violation.

(c) Notwithstanding section 480-13.5, any violation of this chapter that is directed toward, targets, or injures an elder may be subject to an additional civil penalty not in excess of \$10,000 for each violation in addition to any other fines or penalties assessed for the violation.

(d) No licensee shall be subject to this penalty for a violation of section 449-16(b) or (c) if the violation was not intentional or resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid that error. Examples of bona fide errors include, but are not limited to, clerical miscalculations, computer malfunction, printing errors, and computer programming errors.”

SECTION 4. Section 449-5.5, Hawaii Revised Statutes, is amended to read as follows:

“§449-5.5 Net capital. The net capital of any corporation engaging in the escrow depository business under this chapter shall not be less than ~~[\$50,000. A corporation in lieu of the net capital requirement may alternatively file a bond for \$50,000 conditional upon its satisfactory performance of escrow conditions and satisfaction of all escrow liabilities.] \$100,000.~~ The amount of the minimum net capital of ~~[\$50,000, or the bond, or a combination of both net capital or bond totaling \$50,000]~~ \$100,000 shall be maintained at all times by the licensee.

~~[Licensees in operation on May 24, 1973, pursuant to this chapter with a net capital of less than \$50,000 shall increase its net capital to \$50,000 or file a bond for \$50,000, or take action so that a combination of its net capital and bond totals \$50,000, before May 24, 1978.]”~~

SECTION 5. Section 449-7.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

~~“(c) The escrow depository business shall be under the direct management of an officer, or an employee, designated by its board of directors as escrow officer for the corporation [and if the designated escrow officer terminates the escrow officer’s employment with the escrow depository, the licensee shall notify the commissioner in writing at least fifteen days before the termination date of the designated escrow officer. The licensee shall also inform the commissioner in writing of the new escrow officer for the corporation designated by its board of directors before the present escrow officer terminates the present escrow officer’s employment with the company, setting forth the experience, integrity, and competency of the new designated escrow officer in handling escrow transactions, and such other information as required by the commissioner]. The licensee shall inform the commissioner in writing of any change to the designated escrow officer for the corporation at least fifteen days prior to the change, unless the change occurs so unexpectedly that the licensee is unable to provide fifteen days’ prior notice; provided that when unexpected circumstances prevent prior notice, the licensee shall provide notice within five business days after the change. Within five business days of the designation of a new escrow officer by its board of directors, the licensee shall inform the commissioner in writing of the new escrow officer for the corporation, setting forth the experience, integrity, and competency of the new designated escrow officer in handling escrow transactions, and such other information as may be required by the commissioner.”~~

SECTION 6. Section 449-8.6, Hawaii Revised Statutes, is amended to read as follows:

“[§449-8.6] Sale or transfer of license or change in control. (a) No escrow depository license shall be transferred~~[-]~~ except as provided in subsection (c).

(b) A bona fide sale of all or substantially all of the ongoing operations of a licensee shall not result in the assignment or transfer of the escrow depository license. The purchaser of all or substantially all of the ongoing operations of a licensee shall file an application for approval in accordance with this chapter and shall not act as an escrow depository unless it has been licensed by the commissioner.

(c) If the licensee is a corporation, any intended transfer of its voting stock which may result in the acquisition of control of the licensee may be considered a transfer of license. Any intended transfer of the voting stock which may result in the acquisition of control shall be reported to the commissioner in writing. Upon determination by the commissioner that the intended transfer will result in the acquisition of control, the transferee of the stock shall file an

application for approval to act as an escrow depository and shall not acquire control of an escrow depository until the transferee has been approved by the commissioner.

(d) The fee for the transfer and change in control of an escrow depository license shall be \$5,000."

SECTION 7. Section 449-11, Hawaii Revised Statutes, is amended to read as follows:

"§449-11 Fidelity bonds~~;~~ deposit~~;~~ insurance or other security devices. A licensed escrow depository shall at all times either:

- (1) Maintain a fidelity bond executed by a surety insurer authorized to do business in the State in an amount not less than ~~[\$25,000;]~~ \$100,000; provided that any bond which is subject to a deductible thereunder in excess of ~~[\$5,000]~~ \$10,000 per occurrence shall require the prior approval of the commissioner, who may take into consideration, among other factors, the amount of the proposed bond; or
- (2) Deposit an equivalent amount of cash or ~~[securities]~~ other security device under such terms and conditions as are acceptable to the commissioner,

upon all of its directors, officers, and employees who have access to money or negotiable securities or instruments in its possession or under its control. Notwithstanding the above provision, the escrow depository may carry bonds or deposit cash or securities above the amounts required by the commissioner."

SECTION 8. Section 449-12, Hawaii Revised Statutes, is amended to read as follows:

"§449-12 Errors and omissions insurance~~;~~ deposit~~;~~ or other security devices. A licensed escrow depository shall at all times either:

- (1) Maintain a policy of errors and omissions insurance executed by an insurer authorized to do business in the State in an amount not less than ~~[\$100,000;]~~ \$250,000; provided that any policy which is subject to a deductible thereunder in excess of ~~[\$10,000;]~~ \$100,000, per occurrence, shall require the prior approval of the commissioner, who may take into consideration, among other factors, the amount of the proposed coverage; or
- (2) Deposit an equivalent amount of cash or ~~[securities]~~ other security device under such terms and conditions as are acceptable to the commissioner."

SECTION 9. Section 449-14, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) The following fees shall be paid by licensed escrow depositories to the commissioner and, together with any administrative penalty or other charge assessed under this chapter, shall be deposited into the compliance resolution fund established pursuant to section 26-9(o):

- (1) For filing and investigation of an escrow depository's application for license, ~~[\$2,000;]~~ \$5,000;
- (2) For an application for approval to establish a branch office~~;~~, \$100;
- (3) For an application for approval to relocate an existing office or branch~~;~~, \$100;
- (4) For ~~initial issuance and~~ annual renewal of an escrow depository's license, ~~[\$100;]~~ \$2,000;

- (5) For initial issuance and annual renewal of a branch office license, ~~[\$50;]~~ \$100;
- (6) For reissuance of a license for the change in the business address of its office, ~~[\$25;]~~ \$50; provided that a reissuance caused by changes to the address by the United States Postal Service shall not require payment of a fee; and
- (7) For an application for approval to cease business as an escrow depository~~[-]~~, \$0.
- (b) For all escrow depositories examined by the commissioner or the commissioner's staff, the commissioner:
 - (1) May charge an examination fee based upon the cost per hour per examiner. The hourly fee shall be ~~[\$40;]~~ \$60;
 - (2) May charge additional amounts for travel, per diem, mileage, and other reasonable expenses incurred in connection with the examination; and
 - (3) Shall bill the affected escrow depository for examination fees and expenses as soon as feasible after the close of the examination or investigation. The affected escrow depository shall pay the division within thirty days following the billing. All payments shall be deposited into the compliance resolution fund established pursuant to section 26-9(o). Any dispute by the affected escrow depository relating to these billings shall be reviewed by the commissioner who may modify, waive, or suspend any billing."

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 11. This Act shall take effect upon its approval; provided that sections 4, 7, and 8 of this Act shall take effect on January 1, 2014; provided further that with respect to licensees in operation on the approval date of this Act, sections 7 and 8 shall take effect on the date of the renewal of the security device, but not later than July 1, 2014.

(Approved June 21, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 167

S.B. NO. 1068

A Bill for an Act Relating to Money Transmitters.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 489D, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§489D- Registration with NMLS. The commissioner may require all licensees to register with NMLS.

§489D- Voluntary surrender of license. (a) A licensee may voluntarily cease business and surrender its license by giving written notice to the commissioner of its intent to surrender its license. Prior to the surrender date of a li-

cense, the licensee shall have either completed all pending money transmissions or assigned each to another licensee.

(b) Notice pursuant to this section shall be provided at least thirty days before the surrender of the license and shall include:

- (1) The date of surrender;
- (2) The name, address, telephone number, facsimile number, and electronic address of a contact individual with knowledge and authority sufficient to communicate with the commissioner regarding all matters relating to the licensee during the period that it was licensed pursuant to this chapter;
- (3) The reason or reasons for surrender;
- (4) Total dollar amount of the licensee's outstanding payment instruments sold in Hawaii and the individual amounts of each outstanding instrument, and the name, address, and contact phone number of the licensee to which each outstanding instrument was assigned;
- (5) A list of the licensee's Hawaii authorized delegates, if any, as of the date of surrender; and
- (6) Confirmation that the licensee has notified each of its Hawaii authorized delegates, if any, that they may no longer conduct money transmissions on the licensee's behalf.

Voluntary surrender of a license shall be effective upon the date of surrender specified on the written notice to the commissioner as required by this section; provided that the licensee has met all the requirements of voluntary surrender and has returned the original license issued."

SECTION 2. Section 489D-4, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"NMLS" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the state licensing and registration of state-licensed loan originators and other financial services providers, or any system provided by the Consumer Financial Protection Bureau."

SECTION 3. Section 489D-7, Hawaii Revised Statutes, is amended to read as follows:

~~[[§489D-7]]~~ Bond or other security device. (a) Each application for a license shall be accompanied by a surety bond, irrevocable letter of credit, or other similar security device acceptable to the commissioner in the amount of [\$1,000-] \$10,000 for the initial twelve months licensure. Thereafter, each licensee shall maintain a bond in the amount required by subsection (g) unless otherwise required by the commissioner. The commissioner may increase the amount of the bond or security device to a maximum of \$500,000 upon the basis of the impaired financial condition of a licensee, as evidenced by a reduction in net worth, financial losses, or other relevant criteria.

(b) The security device shall be in a form satisfactory to the commissioner and shall run to the State for the benefit of any claimants against the licensee to secure the faithful performance of the obligations of the licensee relating to the receipt, handling, transmission, and payment of money in connection with the sale and issuance of payment instruments or transmission of money. In the case of a bond, the aggregate liability of the surety shall not exceed the principal sum of the bond. Claimants against the licensee may bring suit directly on the security device or the commissioner may bring suit on behalf of claimants, either in one action or in successive actions.

(c) To meet the requirement of a security device or of any portion of the principal amount thereof, the licensee may deposit with the commissioner, or with such banks in this State as the licensee may designate and the commissioner may approve, cash, interest-bearing stocks and bonds, notes, debentures, or other obligations:

- (1) Of the United States or any agency or instrumentality thereof;
- (2) Guaranteed by the United States;
- (3) Of the State, a county, or instrumentality of the State; or
- (4) Guaranteed by the State,

in an aggregate amount based upon the principal amount or market value, whichever is lower, of not less than the amount of the security device or portion thereof.

(d) The securities or cash deposited pursuant to subsection (c) shall secure the same obligations as would the security device, but the depositor shall:

- (1) Be entitled to receive all interest and dividends thereon;
- (2) Have the right, with the approval of the commissioner, to substitute other securities for those deposited; and
- (3) Be required to substitute other securities for those deposited upon a showing of good cause and written order of the commissioner.

(e) The security device shall remain in effect until cancellation, which may occur only after thirty days written notice to the commissioner. Cancellation shall not affect any liability incurred or accrued during the period.

(f) The security device shall remain in place for no longer than five years after the licensee ceases money transmission operations in the State. Notwithstanding this provision, the commissioner may permit the security device to be reduced or eliminated prior to that time to the extent that the amount of the licensee's payment instruments outstanding in the State are reduced. The commissioner may also permit a licensee to substitute a letter of credit or other form of security device acceptable to the commissioner for the security device in place at the time the licensee ceases money transmission operations in the State.

(g) After the initial year of licensure, a licensee shall obtain a bond or other security device of \$5,000 if the licensee's annualized money transmissions as calculated in section 489D-12(a) are less than \$10,000,000. The bond or security device shall be \$10,000 if the licensee's annualized money transmissions as calculated in section 489D-12(a) are \$10,000,000 or more. Each licensee shall perform this calculation on an annual basis."

SECTION 4. Section 489D-9, Hawaii Revised Statutes, is amended to read as follows:

"§489D-9 [Application for license. (a)] License and registration; application. (a) The commissioner may enter into agreements or contracts with the operators of NMLS or other entities designated by NMLS to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter.

(b) For the purpose and the extent necessary to use NMLS, the commissioner may waive or modify, in whole or in part, by rule or order, any or all of the requirements of this chapter and establish new requirements as reasonably necessary to participate in NMLS.

(c) In addition to other uses of NMLS, the commissioner may use NMLS as an agent for:

- (1) Requesting information from and distributing information to the United States Department of Justice or any other governmental agency; and

- (2) Requesting and distributing information to and from any source directed by the commissioner.

(d) An application for a license under this chapter shall be made in writing, and in a form prescribed by NMLS or by the commissioner. Each application shall contain the following:

- (1) For all applicants:
 - (A) The exact name of the applicant, any fictitious or trade name used by the applicant in the conduct of its business, the applicant's principal address, and the location of the applicant's business records;
 - (B) The history of the applicant's material litigation and criminal convictions for the five-year period prior to the date of the application;
 - (C) A description of the business activities conducted by the applicant and a history of operations;
 - (D) A description of the business activities in which the applicant seeks to engage within the State;
 - (E) A list identifying the applicant's proposed authorized delegates in the State, if any, at the time of the filing of the license application;
 - (F) A sample authorized delegate contract, if applicable;
 - (G) A sample form of payment instrument, if applicable;
 - (H) The locations where the applicant and its authorized delegates, if any, propose to conduct their licensed activities in the State;
 - (I) The name and address of the clearing bank or banks on which the applicant's payment instruments will be drawn or through which payment instruments will be payable;
 - (J) Disclosure of any pending or final suspension, revocation, or other enforcement action by any state or governmental authority for the five-year period prior to the date of the application; and
 - (K) Any other information the commissioner may require;
- (2) If the applicant is a corporation, the applicant shall also provide:
 - (A) The date of the applicant's incorporation and state of incorporation;
 - (B) A certificate of good standing from the state in which the applicant was incorporated;
 - (C) A description of the corporate structure of the applicant, including the identity of any parent or subsidiary company of the applicant, and the disclosure of whether any parent or subsidiary company is publicly traded on any stock exchange;
 - (D) The name, business and residence address, and employment history, for the past five years, of the applicant's executive officers and the officers or managers who will be in charge of the applicant's activities to be licensed under this chapter;
 - (E) The name, business and residence address, and employment history of any key shareholder of the applicant, for the period of five years before the date of the application;
 - (F) For the five-year period prior to the date of the application, the history of material litigation involving, and criminal convictions of, every executive officer or key shareholder of the applicant;
 - (G) A copy of the applicant's most recent audited financial statement, including balance sheets, statements of income or loss,

statements of changes in shareholder equity and statement of changes in financial position, and, if available, the applicant's audited financial statements for the preceding two-year period or, if the applicant is a wholly owned subsidiary of another corporation, either the parent corporation's consolidated audited financial statements for the current year and for the preceding two-year period, or the parent corporation's Form 10-K reports filed with the United States Securities and Exchange Commission for the prior three years in lieu of the applicant's financial statements, or if the applicant is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's non-United States regulator;

- (H) Copies of all filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, within the year preceding the date of filing of the application; and
- (I) Information necessary to conduct a criminal history record check in accordance with section 846-2.7 of each of the executive officers, key shareholders, and managers who will be in charge of the applicant's activities, accompanied by the appropriate payment of the applicable fee for each record check; and
- (3) If the applicant is not a corporation, the applicant shall also provide:
 - (A) The name, business and residence address, personal financial statement, and employment history, for the past five years, of each principal of the applicant;
 - (B) The name, business and residence address, and employment history, for the past five years, of any other persons who will be in charge of the applicant's activities to be licensed under this chapter;
 - (C) The place and date of the applicant's registration or qualification to do business in this State;
 - (D) The history of material litigation and criminal convictions for the five-year period before the date of the application for each individual having any ownership interest in the applicant and each individual who exercises supervisory responsibility over the applicant's activities;
 - (E) Copies of the applicant's audited financial statements, including balance sheets, statements of income or loss, and statements of changes in financial position for the current year and, if available, for the preceding two-year period; and
 - (F) Information necessary to conduct a criminal history record check in accordance with section 846-2.7 of each principal of the applicant, accompanied by the appropriate payment of the applicable fee for each record check.
- ~~[(b)]~~ (e) The commissioner, for good cause may:
 - (1) Waive any requirement of this section relating to any license application; or
 - (2) Permit an applicant to submit substituted information in its license application in lieu of the information required by this section."

SECTION 5. Section 489D-9.5, Hawaii Revised Statutes, is amended to read as follows:

“[§489D-9.5] Limited exemption for financial institutions; financial institutions as authorized delegates. (a) Banks, bank holding companies, credit unions, ~~[building and loan associations, savings and loan associations,]~~ savings banks, financial services loan companies, and mutual banks organized under the laws of the United States or any state shall be exempt from the licensing and examination provisions of this chapter.

(b) An applicant or licensee may appoint an entity described in subsection (a) as an authorized delegate.

(c) When submitting an application for a license pursuant to section 489D-9, or when submitting an annual report pursuant to section 489D-12, an applicant or licensee that appoints an entity described in subsection (a) as an authorized delegate shall include that entity's name and the locations in this State where that entity will conduct its authorized delegate activities.

~~[(d) When computing the application and license fees required to be paid pursuant to sections 489D-10 and 489D-12, an applicant or licensee that appoints an entity described in subsection (a) as an authorized delegate shall exclude all of the locations in this State where that entity will conduct its authorized delegate activities.]”~~

SECTION 6. Section 489D-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each application shall be accompanied by:

- (1) A nonrefundable application fee in the amount of ~~[\$2,000 plus \$300 for each additional location in the State, not to exceed an aggregate fee of \$15,000;]~~ \$5,000; and
- (2) An initial annual license fee of ~~[\$2,000 plus \$300 for each additional location in the State, not to exceed an aggregate fee of \$15,000;]~~ \$5,000.”

SECTION 7. Section 489D-12, Hawaii Revised Statutes, is amended to read as follows:

“§489D-12 Renewal of license and annual report. (a) On or before December 31 of each year, each licensee shall pay ~~[to the commissioner an annual license fee of \$2,000, plus \$300 for each additional location in the State, not to exceed an aggregate fee of \$15,000;]~~ renewal fees based on the number of annualized money transmissions as follows:

- (1) \$3,000 for licensees with fewer than 5,000 money transmissions;
- (2) \$5,000 for licensees with 5,000 or more but fewer than 50,000 money transmissions;
- (3) \$8,000 for licensees with 50,000 or more but fewer than 100,000 money transmissions;
- (4) \$16,000 for licensees with 100,000 or more but fewer than 200,000 money transmissions; and
- (5) \$20,000 for licensees with 200,000 or more money transmissions.

For purposes of this subsection, “annualized money transmissions” means the number of money transmissions reported for the quarter on the report required by subsection (b)(2), multiplied by four.

(b) The annual license fee shall be accompanied by a report, in a form prescribed by the commissioner, which shall include:

- (1) A copy of the licensee's most recent audited annual financial statement, including balance sheets, statement of income or loss, statement of changes in shareholder's equity, and statement of ~~[changes in financial position]~~ cash flows or, if a licensee is a wholly owned

subsidiary of another corporation, the consolidated audited annual financial statement of the parent corporation in lieu of the licensee's audited annual financial statement;

- (2) For the most recent quarter for which data is available prior to the date of filing the annual report, but in no event more than one hundred twenty days prior to the renewal date, the licensee shall provide the number of ~~[payment instruments]~~ money transmissions sold, issued, or received for transmission by the licensee in the State, the dollar amount of those ~~[instruments,]~~ transmissions, and the dollar amounts of ~~[those]~~ payment instruments currently outstanding;
- (3) Any material changes to any of the information submitted by the licensee on its original application that have not previously been reported to the commissioner on any other report required to be filed under this chapter;
- (4) For the most recent quarter for which data is available prior to the date of filing the annual report, but in no event more than one hundred twenty days prior to the renewal date, a list of the licensee's permissible investments, including the total market value of each type of permissible investment, and the total dollar amount of all outstanding payment instruments issued or sold by the licensee in the United States;
- (5) A list of the locations, if any, within this State where business regulated by this chapter is being conducted by either the licensee or the licensee's authorized delegates;
- (6) Disclosure of any pending or final suspension, revocation, or other enforcement action by any state or governmental authority; ~~and~~
- (7) The licensee's evidence of a valid bond or other security device as required pursuant to section 489D-7; and

~~[(7)]~~ (8) Any other information the commissioner may require.

A license may be renewed by filing a renewal statement on a form prescribed by NMLS or by the commissioner and paying a renewal fee at least four weeks prior to the renewal date for licensure for the following year.

(c) A licensee that has not filed an annual report that has been deemed complete by the commissioner or paid its annual license fee by the renewal filing deadline, and has not been granted an extension of time to do so by the commissioner, shall have its license suspended on the renewal date. The licensee ~~[has]~~ shall have thirty days after its license is suspended to file an annual report and pay the annual license fee, plus a late filing fee of ~~[\$100]~~ \$250 for each business day after suspension that the commissioner does not receive the annual report and the annual license fee. The commissioner, for good cause, may grant an extension of the renewal date or reduce or suspend the ~~[\$100]~~ \$250 per day late filing fee."

SECTION 8. Section 489D-12.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§489D-12.5]] Fees, Penalties and other charges.~~ [Unless otherwise provided by statute, all fees] Administrative penalties and other charges assessed under this chapter shall be deposited into the compliance resolution fund established pursuant to section 26-9(o)."

SECTION 9. Section 489D-14.5, Hawaii Revised Statutes, is amended to read as follows:

“[§489D-14.5] Name change. To change its name, its fictitious name, or its trade name, a ~~[money transmitter]~~ licensee shall file an application with the commissioner and pay a nonrefundable fee of ~~[\$250]~~ \$1,000 or ~~[such]~~ a greater amount as the commissioner shall establish by rule pursuant to chapter 91. The application shall be approved if the commissioner is satisfied that the new name complies with all applicable laws. Any change of name shall not affect a ~~[money transmitter's]~~ licensee's rights, liabilities, or obligations existing prior to the effective date thereof, and no documents of transfer shall be necessary to preserve such rights, liabilities, or obligations; provided that the commissioner may require notice to be given to the public and other governmental agencies.”

SECTION 10. Section 489D-15, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) A licensee shall submit to the commissioner an application requesting approval of a proposed change of control of the licensee, accompanied by a nonrefundable application fee of ~~[\$2,000-]~~ \$2,500.

(b) After review of a request for approval under subsection (a), the commissioner may require the licensee to provide additional information concerning the persons who are to assume control of the licensee. The additional information shall be limited to similar information required of the licensee or persons in control of the licensee as part of its original license or renewal application under sections 489D-9 and 489D-12[-] and shall include the history of the applicant's material litigation and criminal convictions for the five-year period prior to the date of the application for change of control of the licensee.”

SECTION 11. Section 489D-16, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every licensee and its authorized delegates shall file with the commissioner all reports relating to transactions in the State, as required by federal recordkeeping and reporting requirements in Title 31 United States Code section 5311 et seq., 31 Code of Federal Regulations Part ~~[403-]~~ 1022, section ~~[125-]~~ 1022.210, and other federal and state laws pertaining to money laundering.”

SECTION 12. Section 489D-17, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The commissioner shall charge an examination fee to each ~~[licensed money transmitter]~~ licensee and authorized delegate examined or investigated by the commissioner or the commissioner's staff, based upon the cost per hour per examiner. ~~[Effective July 1, 2008, the]~~ The hourly fee shall be \$60.”

SECTION 13. Section 489D-21, Hawaii Revised Statutes, is amended to read as follows:

“[§489D-21] Authorized delegate contracts. Licensees desiring to conduct licensed activities through authorized delegates shall authorize each delegate to operate pursuant to an express written contract. These contracts shall provide the following:

- (1) That the licensee appoints the person as the licensee's delegate with authority to engage in money transmission on behalf of the licensee;
- (2) That neither a licensee nor an authorized delegate may authorize subdelegates without the written consent of the commissioner;
- (3) That the licensee is subject to supervision and rule by the commissioner; and

- (4) That the authorized delegate certifies that it is in compliance with the recordkeeping and reporting requirements under Title 31 United States Code section 5311 et seq., 31 Code of Federal Regulations Part [403,] 1022, section [425,] 1022.210, and other federal and state laws pertaining to money laundering.”

SECTION 14. Section 489D-28, Hawaii Revised Statutes, is amended to read as follows:

“§489D-28 Civil penalties. [(a)] The commissioner may assess a fine against a person who violates this chapter or a rule adopted or an order issued under this chapter in an amount not to exceed [\$500] \$1,000 per day for each day the violation is outstanding, plus the State’s costs and expenses for the investigation and prosecution of the matter, including reasonable attorneys’ fees.

~~[(b) All administrative fines collected under authority of this chapter shall be deposited into the compliance resolution fund established pursuant to section 26-9(e).]”~~

SECTION 15. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Criminal history record checks may be conducted by:

- (1) The department of health or the department’s designee on operators of adult foster homes or developmental disabilities domiciliary homes and their employees, as provided by section 333F-22;
- (2) The department of health or the department’s designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health services as provided by section 321-171.5;
- (3) The department of health or the department’s designee on all applicants for licensure for, operators for, prospective employees, and volunteers at one or more of the following: skilled nursing facility, intermediate care facility, adult residential care home, expanded adult residential care home, assisted living facility, home health agency, hospice, adult day health center, special treatment facility, therapeutic living program, intermediate care facility for individuals with intellectual disabilities, hospital, rural health center and rehabilitation agency, and, in the case of any of the above facilities operating in a private residence, on any adult living in the facility other than the client as provided by section 321-15.2;
- (4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;
- (5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;
- (6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;
- (7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;
- (8) The department of human services on operators and employees of child caring institutions, child placing organizations, and foster boarding homes as provided by section 346-17;

- (9) The department of human services on prospective adoptive parents as established under section 346-19.7;
- (10) The department of human services on applicants to operate child care facilities, prospective employees of the applicant, and new employees of the provider after registration or licensure as provided by section 346-154;
- (11) The department of human services on persons exempt pursuant to section 346-152 to be eligible to provide child care and receive child care subsidies as provided by section 346-152.5;
- (12) The department of human services on operators and employees of home and community-based case management agencies and operators and other adults, except for adults in care, residing in foster family homes as provided by section 346-335;
- (13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;
- (14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;
- (15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;
- (16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;
- (17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
- (18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;
- (19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;
- (20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;
- (21) The department of human services on licensed adult day care center operators, employees, new employees, subcontracted service providers and their employees, and adult volunteers as provided by section 346-97;
- (22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult and community care services branch, as provided by section 346-97;
- (23) The department of human services on foster grandparent program, retired and senior volunteer program, senior companion program,

- and respite companion program participants as provided by section 346-97;
- (24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, Title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;
 - (25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;
 - (26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;
 - (27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;
 - (28) The department of commerce and consumer affairs on:
 - (A) Each principal of every non-corporate applicant for a money transmitter license; and
 - (B) The executive officers, key shareholders, and managers in charge of a money transmitter's activities of every corporate applicant for a money transmitter license,
 as provided by ~~section~~ sections 489D-9[.] and 489D-15;
 - (29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;
 - (30) The Hawaii health systems corporation on:
 - (A) Employees;
 - (B) Applicants seeking employment;
 - (C) Current or prospective members of the corporation board or regional system board; or
 - (D) Current or prospective volunteers, providers, or contractors, in any of the corporation's health facilities as provided by section 323F-5.5;
 - (31) The department of commerce and consumer affairs on:
 - (A) An applicant for a mortgage loan originator license; and
 - (B) Each control person, executive officer, director, general partner, and manager of an applicant for a mortgage loan originator company license,
 as provided by chapter 454F;
 - (32) The counties on prospective employees who work with vulnerable adults or senior citizens in community-based programs;
 - (33) The counties on prospective employees for fire department positions which involve contact with children or dependent adults;
 - (34) The counties on prospective employees for emergency medical services positions which involve contact with children or dependent adults;
 - (35) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing homeland security measures including viewing, handling, and engaging in law enforcement or classi-

- fi ed meetings and assisting vulnerable and disabled citizens during emergencies or crises; and
- (36) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law.”

SECTION 16. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 17. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 18. This Act shall take effect upon its approval.

(Approved June 21, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 168

S.B. NO. 1069

A Bill for an Act Relating to Mortgage Loan Origination.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 412:9-501, Hawaii Revised Statutes, is amended by amending its title to read as follows:

“~~[[§412:9-501]] Registration of nondepository financial services loan companies with [Nationwide Mortgage Licensing System.] NMLS.~~”

SECTION 2. Section 454F-1, Hawaii Revised Statutes, is amended as follows:

1. By adding four new definitions to be appropriately inserted and to read:

““Loan modification” means a temporary or permanent change to the terms of a borrower’s existing loan agreement, mutually agreed to between a borrower and a lender.

“Mortgage call report” means a single report of condition that each licensee may be required to submit to NMLS.

“NMLS” means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the state licensing and registration of state-licensed loan originators and other financial services providers, or any system provided by the Consumer Financial Protection Bureau.

“Principal place of business” means a mortgage loan originator company’s main office location in this State that is separate from a branch office unless the branch office is specified as the principal place of business by a mortgage loan originator company headquartered out-of-state and identified by any means to consumers as a location at which the licensee holds itself out as a mortgage loan originator company.”

2. By amending the definitions of “branch manager”, “branch office”, “exempt registered mortgage loan originator”, “licensee”, “mortgage loan originator”, “mortgage servicer company”, and “sponsor” to read:

“Branch manager” means an individual who is designated and employed by a mortgage loan originator company to be responsible for the activities in the conduct of business of the licensed mortgage loan originator company’s branch office[;] or principal place of business, in conducting the business of that mortgage loan originator company’s branch office[;] or principal place of business.

“Branch office” means any location, separate from the principal place of business of the mortgage loan originator company that is identified by any means to the public or customers as a location at which the licensee holds itself out as a mortgage loan originator company. For mortgage loan originator companies headquartered out-of-state, a branch office may be its principal place of business.

“Exempt registered mortgage loan originator” means any individual who:

- (1) Meets the definition of mortgage loan originator and is an employee of:
 - (A) An insured depository institution;
 - ~~[(B) A subsidiary that is:~~
 - ~~(i) Owned and controlled by an insured depository institution; and~~
 - ~~(ii) Regulated by a federal banking agency;]~~ or
 - ~~[(C)] (B)~~ An institution regulated by the Farm Credit Administration; and
- (2) Is registered with, and maintains a unique identifier through, ~~[the Nationwide Mortgage Licensing System]~~ NMLS but is not required to be licensed under this chapter.

“Licensee” means a mortgage loan originator, a mortgage loan originator company, a mortgage servicer company, unless exempt under chapter 454M, or a person who is ~~[required to be]~~ licensed under this chapter. Licensee does not include an exempt registered mortgage loan originator ~~[or]~~, exempt sponsoring mortgage loan originator company, or nonprofit organization as defined by this section.

“Mortgage loan originator”:

- (1) Means an individual who for compensation or gain or in the expectation of compensation or gain:
 - (A) Takes a residential mortgage loan application; or
 - (B) Offers or negotiates terms of a residential mortgage loan; ~~[and]~~
- ~~(2)~~ Means any individual who offers or negotiates the terms of a residential mortgage loan secured by a dwelling that served as the individual’s residence, including a vacation home, or inherited property that served as the deceased’s dwelling; provided that the individual does not act as a mortgage loan originator or provide financing for such sales more than three times in a calendar year; and
- ~~[(2)]~~ (3) Includes an independent contractor as defined in this section.

“Mortgage servicer company” means a mortgage servicer company licensed under chapter 454M[;] that employs one or more individuals who conduct mortgage loan origination activity.

“Sponsor” means to:

- (1) Create a relationship through ~~[the Nationwide Mortgage Licensing System;]~~ NMLS; and
- (2) Appropriately supervise a mortgage loan originator’s activities.”

3. By deleting the definition of “Nationwide Mortgage Licensing System” or “Nationwide Mortgage Licensing System and Registry”.

~~["Nationwide Mortgage Licensing System" or "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators, mortgage loan originator companies, exempt registered mortgage loan originators, and exempt registered mortgage loan originator companies as defined by this chapter."]~~

SECTION 3. Section 454F-1.5, Hawaii Revised Statutes, is amended to read as follows:

"§454F-1.5 Registration with [Nationwide Mortgage Licensing System] NMLS required. (a) All mortgage loan originators, mortgage loan originator companies, exempt sponsoring mortgage loan originator companies, nonprofit organizations, mortgage servicer companies, and every other person in this State that originates a residential mortgage loan, unless exempt under section 454F-2, shall register with ~~[the Nationwide Mortgage Licensing System.]~~ NMLS.

(b) Exempt registered mortgage loan originators, unless exempt under section 454F-2, shall register and maintain a unique identifier through ~~[the Nationwide Mortgage Licensing System.]~~ NMLS, but shall not be required to be licensed under this chapter."

SECTION 4. Section 454F-1.6, Hawaii Revised Statutes, is amended to read as follows:

"§454F-1.6 Presumption of control. An individual is presumed to control a mortgage loan originator company or a mortgage servicer company if that individual is a director, general partner, managing member, or executive officer who directly or indirectly has the right to vote ten per cent or more of a class of voting securities or has the power to sell or direct the sale of ten per cent or more of a class of voting securities of that mortgage loan originator company~~[-]~~ or mortgage servicer company."

SECTION 5. Section 454F-1.7, Hawaii Revised Statutes, is amended by amending its title to read as follows:

"§454F-1.7 Duties of a mortgage loan originator company's qualified individual and branch manager."

SECTION 6. Section 454F-3, Hawaii Revised Statutes, is amended to read as follows:

"§454F-3 Requirement of licensure. (a) Effective January 1, 2011, or such later date approved by the United States Department of Housing and Urban Development pursuant to the authority granted under Public Law 110-289, section 1508(e), title 12 United States Code section 5107(e), a person, unless specifically exempted from this chapter, shall not engage in the business of a mortgage loan originator or mortgage loan originator company with respect to any dwelling located in this State without first obtaining and maintaining annually, a license under this chapter. Each licensed mortgage loan originator ~~[or]~~, mortgage loan originator company, or mortgage servicer company shall register with and maintain a valid unique identifier issued by ~~[the Nationwide Mortgage Licensing System.]~~ NMLS and shall submit to ~~[the Nationwide Mortgage Licensing Sys-~~

tem] NMLS any reports that shall be in a form and contain information as [the Nationwide Mortgage Licensing System] NMLS may require.

~~[A mortgage broker or mortgage solicitor who holds a license under chapter 454 that is valid as of December 31, 2010 and who creates a record and obtains a unique identifying number in the Nationwide Mortgage Licensing System by November 30, 2010 shall be determined to be in compliance with the licensing provisions of this chapter until the commissioner makes a final determination on the issuance or denial of the individual's license.]~~

(b) An independent contractor shall not engage in the activities of a loan processor or underwriter without a license pursuant to section 454F-4. Each independent contractor licensed as a mortgage loan originator shall obtain and maintain a valid unique identifier issued by ~~[the Nationwide Mortgage Licensing System]~~ NMLS. An independent contractor who is not an exclusive agent of a mortgage loan originator company, in addition to obtaining a license as a mortgage loan originator, shall obtain a license as a mortgage loan originator company.

(c) A loan processor or underwriter who does not represent to the public, through advertising or other means of communicating or providing information, including through business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator, who does not advertise that the individual can or will perform any of the activities of a mortgage loan originator, and who does not engage in the activities of a mortgage loan originator shall not be required to be licensed under this chapter.

~~[(d) Upon obtaining a [licensing] determination under this chapter, an applicant's license issued under chapter 454 shall automatically terminate.~~

(e) ~~(d)~~ If this section or any provision of this section conflicts at any time with any federal law, then the federal law shall prevail and this section or the relevant provisions of this section shall become ineffective and invalid. The ineffectiveness or invalidity of this section or any of its provisions shall not affect any other provisions or applications of this chapter which shall be given effect without the invalid provision or application, and to this end, the provisions of this section are severable.”

SECTION 7. Section 454F-4, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) To fulfill the purposes of this chapter, the commissioner ~~[shall establish relationships]~~ may enter into agreements or contracts with ~~[the Nationwide Mortgage Licensing System]~~ NMLS or other entities ~~[designated by the Nationwide Mortgage Licensing System]~~ to use NMLS to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter.”

2. By amending subsection (d) to read:

“(d) In connection with an application for a license under this chapter, the applicant, at a minimum, shall furnish to ~~[the Nationwide Mortgage Licensing System]~~ NMLS information concerning the applicant's identity, including:

(1) Fingerprints of the applicant ~~[and,]~~ or, if an applicant is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive the fingerprints for a state, national, and international criminal history background check; and

- (2) Personal history and experience of the applicant [~~and,~~] or, if an applicant is not an individual, each of the applicant's control persons, executive officers, directors, general partners, and managing members in a form prescribed by [~~the Nationwide Mortgage Licensing System~~] NMLS including the submission of authorization for [~~the Nationwide Mortgage Licensing System~~] NMLS and the commissioner to obtain:
 - (A) An independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, title 15 United States Code section 1681 et seq.; and
 - (B) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction;

provided that the commissioner may use any information obtained pursuant to this subsection or through [~~the Nationwide Mortgage Licensing System~~] NMLS to determine an applicant's demonstrated financial responsibility, character, and general fitness for licensure."

SECTION 8. Section 454F-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) An applicant for licensure as a mortgage loan originator shall complete at least twenty hours of pre-licensing education approved in accordance with subsection (b) that includes:

- (1) Three hours of federal law and regulations[;] and three hours of state law and rules;
- (2) Three hours of ethics, that shall include instruction on fraud, consumer protection, and fair lending issues; and
- (3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace.

Upon completion of the pre-licensing education, an individual has up to twelve months to submit an application for licensure as a mortgage loan originator. An individual who submits an application after the twelve months have expired will be required to repeat the pre-licensing education requirements."

SECTION 9. Section 454F-7, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) To meet the [~~passing of the~~] written test requirement in section 454F-5, an applicant for licensure as a mortgage loan originator shall pass, in accordance with the standards established under this section, a qualified written test developed by [~~the Nationwide Mortgage Licensing System~~] NMLS and administered by a test provider approved by [~~the Nationwide Mortgage Licensing System~~] NMLS based upon reasonable standards."

2. By amending subsections (c) and (d) to read:

"(c) Nothing in this section shall prohibit a test provider approved by [~~the Nationwide Mortgage Licensing System~~] NMLS from providing a test at the location of the employer of the applicant, the location of any subsidiary or affiliate of the employer of the applicant, or the location of any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

(d) An individual shall have passed a qualified written test if the individual achieves a test score of seventy-five per cent of the correct answers to questions or better. An individual may [~~retake~~] take a test three [~~consecutive~~] times with each [~~consecutive taking~~] retest occurring at least thirty days after the

preceding test. After failing three consecutive tests, an individual shall wait at least six months before taking the test again. A licensed mortgage loan originator who fails to maintain a valid license for a period of five years or longer not taking into account any time during which the individual is an exempt registered mortgage loan originator, shall retake the test.”

SECTION 10. Section 454F-8, Hawaii Revised Statutes, is amended to read as follows:

“§454F-8 Standards for license renewal. (a) The minimum standards for license renewal for mortgage loan originators shall include the following:

- (1) The mortgage loan originator continues to meet the minimum standards for licensure under section 454F-5;
- (2) The mortgage loan originator has satisfied the annual continuing education requirements in section 454F-9[;] prior to requesting renewal; and
- (3) The mortgage loan originator has paid all required fees for renewal of the license.

(b) The minimum standards for license renewal for mortgage loan originator companies shall include the following:

- (1) The mortgage loan originator company continues to meet the minimum standards for licensure established pursuant to section 454F-5;
- (2) The mortgage loan originator company's qualified individual and every branch manager have satisfied the minimum standards for license renewal; and
- (3) The mortgage loan originator company has paid all required fees for renewal of the license.

(c) The minimum standards for license renewal for a mortgage servicer company shall include the following:

- (1) The mortgage servicer company continues to meet the minimum standards for licensure established pursuant to section 454F-5; and
- (2) The mortgage servicer company has paid all required fees for renewal of the license.

[(e)] (d) The license of a mortgage loan originator [or], mortgage loan originator company, or mortgage servicer company that fails to satisfy the minimum standards for license renewal shall expire. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with section 454F-8.5 and the standards established by [the Nationwide Mortgage Licensing System.] NMLS.”

SECTION 11. Section 454F-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each year, a licensed mortgage loan originator shall complete at least eight hours of education approved in accordance with subsection (b) that shall include [at least]:

- (1) Three hours of federal law and regulations;
- (2) One hour of state law and rules;
- [(2)] (3) Two hours of ethics that shall include instruction on fraud, consumer protection, and fair lending issues; and
- [(3)] (4) Two hours of training related to lending standards for the non-traditional mortgage product marketplace.”

SECTION 12. Section 454F-10, Hawaii Revised Statutes, is amended to read as follows:

"§454F-10 Authority to require license. In addition to any other duties imposed upon the commissioner, the commissioner shall require mortgage loan originators ~~[and], mortgage loan originator companies, and mortgage servicer companies~~ to be licensed and registered through ~~[the Nationwide Mortgage Licensing System;]~~ NMLS. The commissioner is authorized to participate in ~~[the Nationwide Mortgage Licensing System;]~~ NMLS. The commissioner may establish by rule pursuant to chapter 91, requirements for mortgage loan originators ~~[and], mortgage loan originator companies, and mortgage servicer companies,~~ including:

- (1) Background checks of:
 - (A) Criminal history through fingerprint or other databases;
 - (B) Civil or administrative records;
 - (C) Credit history; and
 - (D) Any other source deemed necessary by ~~[the Nationwide Mortgage Licensing System;]~~ NMLS;
- (2) Fees to apply for or renew licenses through ~~[the Nationwide Mortgage Licensing System;]~~ NMLS;
- (3) The setting or resetting as necessary of license renewal and reporting dates;
- (4) Requirements for amending or surrendering a license; and
- (5) Any other activity the commissioner deems necessary to participate in ~~[the Nationwide Mortgage Licensing System;]~~ NMLS."

SECTION 13. Section 454F-10.5, Hawaii Revised Statutes, is amended to read as follows:

"§454F-10.5 Authorized places of business; designation of qualified individuals and branch managers; branch offices; out-of-state headquarters; relocation.

(a) Every mortgage loan originator company licensed under this chapter shall have and maintain a principal place of business in the State and shall designate a qualified individual who is licensed as a mortgage loan originator pursuant to this chapter to oversee mortgage loan originators employed or contracted by the company. If the qualified individual is physically located at a branch office, the qualified individual may also be designated as the branch manager.

(b) A mortgage loan originator company shall not maintain any branch offices in the State in addition to its principal place of business without the prior written approval of the commissioner. An application to establish a branch office shall be submitted through NMLS with a nonrefundable application fee as required by section 454F-22. A mortgage loan originator company ~~[that establishes one or more branch offices pursuant to this subsection]~~ shall designate a branch manager for each branch office ~~[located at]~~ who is physically present in the branch office to oversee that branch office. Every branch manager shall be licensed as a mortgage loan originator pursuant to this chapter.

(c) A mortgage loan originator company shall not relocate any office in this State without the prior written approval of the commissioner. An application to relocate an office shall be submitted to the commissioner at least thirty days prior to relocating and shall set forth the reasons for the relocation, the street address of the proposed relocated office, and other information that may be required by the commissioner. An application to relocate an office pursuant to this subsection shall be submitted with a nonrefundable fee as required by section 454F-22.

(d) A mortgage loan originator company shall give the commissioner notice of its intent to close a branch office at least thirty days prior to the closing. The notice shall:

- (1) State the intended date of closing; and
- (2) Specify the reasons for the closing.
- (e) A mortgage loan originator company that maintains its headquarters outside of the State shall:
 - (1) Designate an office in this State as its principal place of business in this State;
 - (2) Apply for and obtain approval from the commissioner to designate its principal place of business in this State as a branch office pursuant to this section; and
 - (3) Designate a qualified individual who shall hold a license as a mortgage loan originator pursuant to this chapter; provided that the qualified individual may be the same person designated as the branch manager.
- (f) A mortgage loan originator company that maintains its headquarters in this State shall designate a qualified individual who is physically present in the principal place of business office as its branch manager to oversee and manage that principal place of business office.

SECTION 14. Section 454F-11, Hawaii Revised Statutes, is amended to read as follows:

~~“§454F-11 [Nationwide Mortgage Licensing System;] NMLS registry information; challenge process.~~ The commissioner shall establish a process by rule pursuant to chapter 91 whereby a licensee may challenge information entered into ~~[the Nationwide Mortgage Licensing System]~~ NMLS by the commissioner.”

SECTION 15. Section 454F-15, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

“(i) The commissioner may charge an examination or investigation fee, payable to the division, based upon the cost per hour per examiner for all licensees and persons subject to this chapter examined or investigated by the commissioner or the commissioner’s staff. The hourly fee shall be ~~[\$40]~~ \$60 or an amount as the commissioner shall establish by rule pursuant to chapter 91. In addition to the examination or investigation fee, the commissioner may charge any person that is examined or investigated by the commissioner or the commissioner’s staff pursuant to this section additional amounts for travel, per diem, mileage, and other reasonable expenses incurred in connection with the examination or investigation, payable to the division.”

SECTION 16. Section 454F-16, Hawaii Revised Statutes, is amended to read as follows:

~~“§454F-16 Mortgage call reports.~~ Each licensee, as may be required by title 12 United States Code sections 5101 to 5116, shall submit quarterly to ~~[the Nationwide Mortgage Licensing System]~~ NMLS reports of condition, using the form entitled “REPORT OF CONDITION”, which shall be in the form and contain the information as ~~[the Nationwide Mortgage Licensing System]~~ NMLS may require.”

SECTION 17. Section 454F-20, Hawaii Revised Statutes, is amended to read as follows:

~~“[§454F-20] Report to [Nationwide Mortgage Licensing System;] NMLS.~~ Notwithstanding any other law to the contrary, the commissioner is

required to regularly report violations of this chapter, as well as enforcement actions and other relevant information, to ~~[the Nationwide Mortgage Licensing System]~~ NMLS subject to the confidentiality provisions contained in section 454F-14.”

SECTION 18. Section 454F-22, Hawaii Revised Statutes, is amended to read as follows:

“§454F-22 Mortgage loan originator, mortgage loan originator company, ~~[and] exempt sponsoring mortgage loan originator company, nonprofit organizations, and mortgage servicer company fees.~~ (a) ~~[A]~~ Except as provided in subsection (b), a mortgage loan originator shall pay the following fees to obtain and maintain a valid mortgage loan originator license:

- (1) Initial application fee of ~~[\$500;]~~ \$600;
- (2) Annual license renewal fee of ~~[\$300;]~~ \$350;
- (3) Reinstatement fee of \$100;
- (4) Late fee of \$25 per day; and
- (5) Criminal background check fee of \$35, or of an amount determined by the commissioner by rule pursuant to chapter 91.

(b) A sole proprietor mortgage loan originator shall pay the following fees to obtain and maintain a valid sole proprietor mortgage loan originator license:

- (1) Initial application fee of \$35;
- (2) Annual license renewal fee of \$35;
- (3) Reinstatement fee of \$100;
- (4) Late fee of \$25 per day; and
- (5) Criminal background check fee of \$35, or of an amount determined by the commissioner by rule pursuant to chapter 91.

[(b)] (c) A mortgage loan originator company shall pay the following fees to maintain a valid mortgage loan originator company license or branch license:

- (1) Fees payable for a principal office of a mortgage loan originator company:
 - (A) Initial application fee of \$900;
 - (B) Processing fee of \$35 for each control person;
 - ~~[(B)] (C)~~ Annual license renewal fee of \$600;
 - ~~[(C)] (D)~~ Reinstatement fee of \$100;
 - ~~[(D)] (E)~~ Late fee of \$25 per day; and
 - ~~[(E)] (F)~~ Criminal background check fee of \$35, or of an amount determined by the commissioner by rule pursuant to chapter 91, for each control person, executive officer, director, general partner, and manager; and
- (2) Fees payable for each branch office of a mortgage loan originator company:
 - (A) Initial application fee of \$250;
 - (B) Annual license renewal fee of \$100;
 - (C) Reinstatement fee of \$100; and
 - (D) Late fee of \$25 per day.

[(e)] (d) An exempt sponsoring mortgage loan originator company shall pay the following fees to maintain a valid registration in ~~[the Nationwide Mortgage Licensing System and Registry;]~~ NMLS:

- (1) Initial registration fee of \$200;
- (2) Annual registration renewal fee of \$150; and
- (3) Late fee of \$25 per day.

~~[(d)]~~ (e) A nonprofit organization shall pay the following fees to maintain a valid registration as a nonprofit organization in ~~[the Nationwide Mortgage Licensing System and Registry]~~ NMLS:

- (1) Initial registration fee of \$200;
- (2) Annual registration renewal fee of \$150; and
- (3) Late fee of \$25 per day.

~~(f) A mortgage servicer company shall pay for a principal office the following fees to maintain a valid mortgage loan originator company license:~~

- ~~(1) Initial application fee of \$600;~~
- ~~(2) Annual license renewal fee of \$600;~~
- ~~(3) Reinstatement fee of \$100;~~
- ~~(4) Late fee of \$25 per day; and~~
- ~~(5) Criminal background check fee of \$35, or of an amount determined by the commissioner by rule pursuant to chapter 91, for each control person, executive officer, director, general partner, and managing member.~~

~~[(e)]~~ (g) In addition to fees charged by ~~[the Nationwide Mortgage Licensing System]~~ NMLS, a licensee shall pay to the commissioner a fee of ~~[\$50]~~ \$100 for each of the following amendments to information provided to ~~[the Nationwide Mortgage Licensing System]~~ NMLS that require the review of the commissioner:

- (1) Change of physical location or mailing address for branch office or principal place of business;
- (2) Addition or deletion of a "d/b/a" assignment;
- (3) Change of mortgage loan originator's sponsor;
- (4) Change of qualified individual;
- (5) Change of branch manager; and
- (6) Change of mortgage loan originator company's legal name.

The commissioner, upon a showing of good cause, may waive any fee set forth in this subsection.

~~[(f)]~~ (h) The fees established by this section are nonrefundable and are in addition to any fees established and charged by ~~[the Nationwide Mortgage Licensing System]~~ NMLS, an approved educational course provider, an approved educational testing provider, a law enforcement agency for fingerprints and background checks, or a credit reporting agency used by ~~[the Nationwide Mortgage Licensing System]~~ NMLS.

~~[(g)]~~ (i) The commissioner may establish, by rule pursuant to chapter 91, any other fees or charges necessary for the administration of this chapter."

SECTION 19. Section 454F-41, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) In addition to application fees and any fees required by ~~[the Nationwide Mortgage Licensing System]~~ NMLS, a licensee shall pay to the division a mortgage loan recovery fund fee as follows for deposit in the mortgage loan recovery fund:

- (1) The sum of \$300 for each principal office location of a mortgage loan originator company~~;~~ or mortgage servicer company;
- (2) The sum of \$250 for each branch office location of a mortgage loan originator company; and
- (3) The sum of \$200 for each mortgage loan originator.

(c) Upon application for renewal of a license under this chapter, a licensee shall pay, in addition to the licensee's license renewal fee and fees required by ~~[the Nationwide Mortgage Licensing System]~~ NMLS, a mortgage loan recovery fund fee as follows for deposit in the mortgage loan recovery fund:

- (1) The sum of \$200 for each principal office location of a mortgage loan originator company~~;~~ or a mortgage servicer company;
- (2) The sum of \$100 for each branch office location of a mortgage loan originator company; and
- (3) The sum of \$100 for each mortgage loan originator.

Mortgage loan recovery fees collected pursuant to this subsection shall be refundable upon the denial of a license renewal by the commissioner."

SECTION 20. Sections 412:9-501(b); 454F-2.5; 454F-4(a) through (f); 454F-4.9(a); 454F-6(b) through (e); 454F-9(b), (c), (d), and (g); 454F-14(a), (c), and (f); 454F-17; and 454F-23, Hawaii Revised Statutes, are amended by substituting the word "NMLS" wherever the words "the Nationwide Mortgage Licensing System", or similar term, appears, as the context requires.

SECTION 21. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 22. This Act shall take effect upon its approval.

(Approved June 21, 2013.)

ACT 169

S.B. NO. 1093

A Bill for an Act Relating to School Readiness.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that more of our children are entering kindergarten without the physical, cognitive, linguistic, social, and emotional skills necessary to prepare them for success in school life. For example, according to the Hawaii State School Readiness Assessment, only forty per cent of kindergarten classes had the majority of their students entering the 2012-2013 school year with school behaviors and skills, and even fewer demonstrated the necessary approaches to learning.

It is no coincidence that the Hawaii State School Readiness Assessment also reports that fifty-seven per cent of students who entered kindergarten had attended preschool. This percentage is lower than in years past. According to kindergarten teachers in the department of education, many of the children who do not have experiences in pre-kindergarten programs could be eighteen to twenty-four months behind developmentally than their peers who do. The link between school readiness and success in school is indisputable. Act 13, Session Laws of Hawaii 2002, defined school readiness to mean that "young children are ready to have successful learning experiences in school when there is a positive interaction among the child's developmental characteristics, school practices, and family and community support."

The State must commit to efforts to promote school readiness, especially in light of its expectation that kindergarten students master the grade-level common core state standards to develop the academic competencies and habits of mind necessary for college and career success.

Act 178, Session Laws of Hawaii 2012, repealed the junior kindergarten program and beginning with the 2014-2015 school year, required that a child must be five years old by July 31 of the school year to attend a public school kindergarten. The legislature's intent was to align the changes with the implementation of a program that would more effectively provide a developmentally

appropriate experience to prepare children physically, cognitively, linguistically, socially, and emotionally prior to beginning the public education provided by the department of education.

Currently, the department of human services administers a child care assistance program, called preschool open doors, whose purpose is to contribute to school readiness for children in the year prior to entering kindergarten.

The purpose of this Act, therefore, is to establish the preschool open doors program as the statewide school readiness program. The preschool open doors program will be administered by the department of human services.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§346- Preschool open doors program. (a) There is established within the department a school readiness program to be known as the preschool open doors program within the department’s child care assistance program. The program shall:

- (1) Provide access to school readiness services that address children’s physical, cognitive, linguistic, social, and emotional development;
 - (2) Require each provider to conduct school readiness assessments;
 - (3) Give priority to children from low- and moderate-income families; and
 - (4) Prepare children for school through either of the State’s two official languages.
- (b) Subject to the availability of funds, the program shall serve four-year-old children, with priority extended to:

- (1) Children who are not eligible to attend public school kindergarten in the calendar year in which they turn five years of age because their birth date occurs after the kindergarten eligibility date pursuant to section 302A-411; and
 - (2) Underserved or at-risk children.
- (c) Enrollment in the program shall be voluntary. A parent or guardian of a child enrolled in the program shall share in the costs of the program through a copayment according to a sliding fee scale that is based on need pursuant to rules adopted by the department.

(d) The department may adopt interim rules to carry out the purposes of this section without regard to chapter 91 or 201M; provided that:

- (1) The department shall hold at least one public hearing prior to the adoption of interim rules;
- (2) The interim rules shall comply with all applicable state and federal laws; and
- (3) The interim rules shall be effective for no more than one year after their adoption.”

SECTION 3. The department of human services shall report to the legislature no later than twenty days prior to the convening of the 2014 and 2015 regular sessions on the following:

- (1) The number of applicants to the preschool open doors program established pursuant to this Act;
- (2) The number of applicants that were placed on a waitlist for the preschool open doors program;
- (3) The geographic distribution of services to participants in the preschool open doors program;
- (4) The number of participating providers; and

- (5) A summary of any capacity and funding issues the department has experienced in carrying out the purposes of this Act.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$720,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of \$440,000 or so much thereof as may be necessary for fiscal year 2014-2015 to establish three temporary positions and to contract services for the purposes of implementing the preschool open doors program as the statewide school readiness program.

The sums appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$6,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 for subsidies for the preschool open doors program.

The sum appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 6. New statutory material is underscored.¹

SECTION 7. This Act shall take effect upon its approval; provided that sections 4 and 5 shall take effect on July 1, 2013.

(Approved June 24, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 170

H.B. NO. 222

A Bill for an Act Relating to the Budget of the Office of Hawaiian Affairs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to appropriate funds for the biennial budget of the office of Hawaiian affairs. This Act shall be known and may be cited as the "Office of Hawaiian Affairs Appropriations Act of 2013".

SECTION 2. Unless otherwise clear from the context, as used in this Act:

"Means of financing", or "MOF", means the source from which funds are appropriated or authorized, as the case may be, to be expended for the programs and projects specified in this Act. Letter symbols following appropriations have the following meanings:

A: General Funds

T: Trust Funds

"Position ceiling" means the maximum number of permanent positions authorized for a particular program during a specified period or periods, as noted by an asterisk.

"Program ID" means the unique identifier of the specific program, and consists of the abbreviation for the office of Hawaiian affairs followed by a designated number for the program.

SECTION 3. The following sums, or so much thereof as may be necessary to accomplish the purposes and programs designated herein, are appropriated or authorized, as the case may be, from the sources of funding specified to the office of Hawaiian affairs for the fiscal biennium beginning July 1, 2013, and ending June 30, 2015. The total general fund expenditures and the number of permanent positions established in each fiscal year of the biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided elsewhere in this Act.

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M YEAR O 2013-2014 F	FISCAL M YEAR O 2014-2015 F
Hawaiian Affairs					
1.	OHA150 - OFFICE OF THE TRUSTEES				
	OPERATING		OHA	0.63 * 28,435 A 4.37 *	0.63 * 28,435 A 4.37 *
			OHA	275,687 T	275,687 T
2.	OHA160 - ADMINISTRATION				
	OPERATING		OHA	7.60 * 700,159 A 32.40 *	7.60 * 700,159 A 32.40 *
			OHA	2,861,727 T	2,861,727 T
3.	OHA175 - BENEFICIARY ADVOCACY				
	OPERATING		OHA	2.86 * 2,412,980 A 14.14 *	2.86 * 2,012,980 A 14.14 *
			OHA	3,442,863 T	3,042,863 T

SECTION 4. Provided that the general fund appropriations in section 3 of this Act shall be expended by the office of Hawaiian affairs.

SECTION 5. Provided that of the funds appropriated for beneficiary advocacy (OHA 175), the sum of \$415,000 in general funds and \$415,000 in trust funds for fiscal year 2013-2014 and the sum of \$415,000 in general funds and \$415,000 in trust funds for fiscal year 2014-2015 shall provide for social services to office of Hawaiian affairs beneficiaries to include information and referral services, case management and counseling, establishment of individual development accounts, financial literacy training, and financial assistance. Referral services include those services relating to education assistance, employment and income security, individual and family care, health needs, housing, legal services, genealogy research, business assistance, and general information; provided that notwithstanding section 10-17(e), Hawaii Revised Statutes, any funds expended for the purposes of this section shall be in accordance with chapter 103D or 103F, Hawaii Revised Statutes, as appropriate.

SECTION 6. Provided that of the funds appropriated for beneficiary advocacy (OHA 175), the sum of \$615,570 in general funds and \$615,570 in trust funds for fiscal year 2013-2014 and the sum of \$615,570 in general funds and \$615,570 in trust funds for fiscal year 2014-2015 shall provide for educational enrichment programs for Native Hawaiian children in grades K through

12 throughout the State. Program activities shall be designed to optimize learning for Hawaiian students and encourage students to develop a stronger interest in learning, connect learning and education to the students' Hawaiian identity, and explore possible educational, career, and academic goals the students may not have considered; provided that notwithstanding section 10-17(e), Hawaii Revised Statutes, expenditure of any funds for the purposes of this section shall be made in accordance with chapter 103D or 103F, Hawaii Revised Statutes, or a competitive grants process, as appropriate.

SECTION 7. Provided that of the funds appropriated for beneficiary advocacy (OHA 175), the sum of \$524,400 in general funds and \$524,400 in trust funds for fiscal year 2013-2014 and the sum of \$524,400 in general funds and \$524,400 in trust funds for fiscal year 2014-2015 shall provide for legal services and legal representation to office of Hawaiian affairs beneficiaries for: the assertion and defense of quiet title actions; assistance with ahupua'a and kuleana tenant rights, including rights of access and rights to water, land title assistance, including review of title and genealogy, preservation of traditional and customary practices, protection of culturally significant places, and preservation of Native Hawaiian land trust entitlements; provided further that notwithstanding section 10-17(e), Hawaii Revised Statutes, expenditure of any funds expended for the purposes of this section shall be made in accordance with chapter 103D or 103F, Hawaii Revised Statutes, as appropriate.

SECTION 8. Provided that of the funds appropriated for beneficiary advocacy (OHA 175), the sum of \$400,000 in general funds and \$400,000 in trust funds for fiscal year 2013-2014 shall provide for health improvement services to office of Hawaiian affairs beneficiaries, to include information and referral services, case management and counseling, and the establishment of prevention programs. Direct services and prevention programs include those designed to have the greatest statewide impact on the overall wellness of Native Hawaiians through targeted foci on the reduction of Native Hawaiian chronic diseases rates, especially obesity; provided further that notwithstanding section 10-17(e), Hawaii Revised Statutes, expenditure of any funds expended for the purposes of this section shall be made in accordance with chapter 103D or 103F, Hawaii Revised Statutes, or a competitive grants process, as appropriate.

SECTION 9. Provided that of the funds appropriated for beneficiary advocacy (OHA 175), the sum of \$250,000 in general funds and \$250,000 in trust funds for fiscal year 2013-2014 and the sum of \$250,000 in general funds and \$250,000 in trust funds for fiscal year 2014-2015 shall be provided for the production and distribution of Hawaiian language content on cable television; provided further that no funds shall be expended unless matched on a dollar-for-dollar basis by the office of Hawaiian affairs.

SECTION 10. Provided that whenever necessary, the board of trustees of the office of Hawaiian affairs or the board's designee may transfer sufficient funds and positions between programs for operating purposes; provided further that these transfers shall not be inconsistent with legislative intent; provided further that a report of these fund transfers shall be made to the legislature no later than the end of the 2014 and 2015 fiscal years, respectively.

SECTION 11. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, the remainder of the Act and any provision thereof shall not be affected. If any portion of a specific ap-

appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and shall be expended to fulfill the objective and intent of the appropriation to the extent possible.

SECTION 12. If manifest clerical, typographical, or other mechanical errors are found in this Act, the board of trustees of the office of Hawaiian affairs may correct these errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 13. This Act shall take effect on July 1, 2013.

(Approved June 24, 2013.)

ACT 171

S.B. NO. 403

A Bill for an Act Relating to Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 10, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

“§10- Federal tax-exempt status; preference; protection. (a) Revenue bonds issued pursuant to this part, to the extent practicable, shall be issued to comply with requirements imposed by applicable federal law providing that the interest on revenue bonds shall be excluded from gross income for federal income tax purposes (except as certain minimum taxes or environmental taxes may apply). The board is authorized to enter into agreements, establish funds or accounts, and take any action required in order to comply with applicable federal law. Nothing in this part or this chapter shall be deemed to prohibit the issuance of revenue bonds, the interest on which may be included in gross income for federal income tax purposes.

(b) For the purpose of ensuring that interest on revenue bonds issued pursuant to this part which is excluded from gross income for federal income tax purposes (except as provided in subsection (a)) on the date of issuance shall continue to be so excluded, no state officer or employee, or user of an undertaking or loan program shall authorize or allow any change, amendment, or modification to an undertaking or loan program financed or refinanced with the proceeds of revenue bonds which change, amendment, or modification thereto would affect the exclusion of interest on those revenue bonds from gross income for federal income tax purposes unless the change, amendment, or modification shall have received the prior approval of the board. Failure to receive the approval of the board shall render any change, amendment, or modification void.”

SECTION 2. Section 10-4, Hawaii Revised Statutes, is amended to read as follows:

“§10-4 Office of Hawaiian affairs; established; general powers. There shall be an office of Hawaiian affairs constituted as a body corporate which shall be a separate entity independent of the executive branch. The office, under the direction of the board of trustees, shall have the following general powers:

- (1) To adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;

- (2) To acquire in any lawful manner any property, real, personal, or mixed, tangible or intangible, or any interest therein; to hold, maintain, use, and operate the same; and to sell, lease, or otherwise dispose of the same at such time, in such manner and to the extent necessary or appropriate to carry out its purpose;
- (3) To determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to the office ~~[of Hawaiian affairs]~~;
- (4) To enter into and perform such contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States, or with the State, or with any political subdivision thereof, or with any person, firm, association, or corporation, as may be necessary in the conduct of its business and on such terms as it may deem appropriate;
- (5) To execute, in accordance with its bylaws, all instruments necessary or appropriate in the exercise of any of its powers;
- (6) To issue revenue bonds pursuant to this chapter to finance the cost of an office project or to fund a loan program, and to provide for the security thereof, in the manner and pursuant to the procedure prescribed in part II;
- (7) To lend or otherwise apply the proceeds of the bonds issued for an office project or a loan program either directly or through a trustee or a qualified person for use and application in the acquisition, ~~purchase,~~ construction, ~~[installation, or modification]~~ reconstruction, improvement, betterment, extension, or maintenance of an office project[;] or the establishment, funding, and administration of a loan program, or agree with the qualified person whereby any of these activities shall be undertaken or supervised by that qualified person or by a person designated by the qualified person;
- (8) With or without terminating a project agreement[;] or loan agreement, as applicable, to exercise any and all rights provided by law for entry and re-entry upon or to take possession of an office project or enforce a loan agreement at any time or from time to time upon breach or default by a qualified person under a project agreement[;] or loan agreement, including any action at law or in equity for the purpose of effecting its rights of entry or re-entry or obtaining possession of the project or enforcing the loan agreement or for the payments of rentals, user taxes, or charges, or any other sum due and payable by the qualified person to the office pursuant to the project agreement[;] or loan agreement; and
- (9) To take such actions as may be necessary or appropriate to carry out the powers conferred upon it by law."

SECTION 3. Section 10-21, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read as follows:

"“Loan program” means the activities and policies undertaken by the office to provide assistance to any department of the State or to any county or board, agency, or instrumentality thereof, or to private individuals or organizations, by making loans or causing loans to be made available to them or by buying, refinancing, or guaranteeing loans made to or other obligations incurred by them for the betterment of native Hawaiians.”

2. By amending the definitions of “office project” or “project” and “revenues of the office” or “office’s revenue” to read as follows:

“Office project” or “project” means:

- (1) The lawful acquisition of any property, real, personal, or mixed, tangible or intangible, or any interests therein, pursuant to section 10-4(2);
- (2) Any capital improvement projects on lands held by the office pursuant to section 10-4(2) or in the public land trust, including but not limited to the construction of buildings and other improvements; infrastructure development, and other enterprises which are acquired, constructed, reconstructed, rehabilitated, improved, altered, or repaired by or on behalf of the office;
- (3) Pilot projects, demonstrations, or both, where those projects or demonstrations fulfill criteria established by the board, pursuant to section 10-5(7); and
- (4) Any other projects determined by rules adopted by the board pursuant to chapter 91 or otherwise authorized by the board in accordance with applicable law to be for the betterment of native Hawaiians and are consistent with the purposes of this chapter.

For purposes of this chapter, the term “office project” or “project” may include projects of the foregoing types that are undertaken by the office in cooperation with other governmental entities or private individuals or organizations.

“Revenues of the office” or “office’s revenue” means all rates, rentals, fees and charges, and user taxes, received by the office of Hawaiian affairs, and all money and revenue derived from the operations of the office ~~[of Hawaiian affairs]~~, other than:

- (1) General appropriations; and
- (2) Funds, the terms of which preclude their being used for payment of the costs of acquisition, purchase, construction, reconstruction, improvement, betterment, extension, or [costs of] maintenance of an office project or the costs of a loan program or the payment of principal or interest of revenue bonds.

For purposes of the issuance of revenue bonds, the office ~~[of Hawaiian affairs]~~ or any office project or projects shall constitute a public undertaking, improvement, or system.”

SECTION 4. Section 10-22, Hawaii Revised Statutes, is amended to read as follows:

“§10-22 Powers of the board. In addition to the powers which it now possesses, the board shall have power to:

- (1) Prescribe and collect rents, fees, and charges for the use of or services furnished by any office project or the facilities thereof~~;~~ or of any loan program;
- (2) Issue revenue bonds under this chapter, in such principal amounts as may be authorized by the legislature from time to time, to finance in whole or in part the cost of acquisition, purchase, construction, reconstruction, improvement, betterment, extension, or maintenance~~;~~ or both, of any office project~~;~~ or the establishment, funding, or administration of any loan program, including reserves therefor;
- (3) Pledge to the punctual payment of such revenue bonds and interest thereon, the revenue of the office project or projects or loan program or programs for ~~[the construction or maintenance of]~~ which

the bonds have been issued, or the revenues of the office, or both, in an amount sufficient to pay such bonds and interest as the same become due and to create and maintain reasonable reserves therefor; and

- (4) Advance such moneys of the office, not otherwise required, as are necessary to pay the expenses incurred in making the preparations for the initial issuance of revenue bonds under this part, and to take any other action necessary or proper for carrying into execution and administering this part, including providing for the full use of office projects or the establishment, funding, and administration of any loan program in every way conducive to the furtherance of any or all purposes of the office."

SECTION 5. Section 10-23, Hawaii Revised Statutes, is amended to read as follows:

"[§10-23] Authorization of office projects and loan programs; issuance of revenue bonds. Authorization of acquisition, purchase, construction, reconstruction, improvement, betterment, extension, or maintenance, ~~or both,~~ of an office project or projects or the establishment, funding, and administration of any loan program, and authorization for issuance of revenue bonds under this part shall be by resolution or resolutions of the board. The resolution may be adopted at the same meeting at which it is introduced by a majority of all the members of the board then in office and shall take effect immediately upon adoption."

SECTION 6. Section 10-25.5, Hawaii Revised Statutes, is amended to read as follows:

"[§10-25.5] Support facility for variable rate revenue bonds. If revenue bonds issued pursuant to this chapter are issued bearing interest at a rate or rates that vary from time to time or with a right of holders to tender the revenue bonds for purchase, or both, the board may contract for a support facility or facilities and remarketing arrangements as are required to market the revenue bonds to the greatest advantage of the board and the office upon ~~such~~ terms and conditions as the board deems necessary and proper.

The board may enter into contracts or agreements with the entity or entities providing a support facility; provided that any contract or agreement shall provide, in essence, that any amount due and owing by the board under the contract or agreement on an annual basis shall be payable from the revenue of the office project or loan program for which revenue bonds are issued or the revenue of the office; provided further that any obligation issued or arising pursuant to the terms of the contract or agreement in the form of revenue bonds, notes, or other evidences of indebtedness shall only arise at such time as either:

- (1) Moneys or securities have been irrevocably set aside for the full payment of a like principal amount of revenue bonds issued pursuant to this chapter; or
- (2) A like principal amount of the issue or series of revenue bonds to which the support facility relates are held in escrow by the entity or entities providing the support facility."

SECTION 7. Section 10-27, Hawaii Revised Statutes, is amended to read as follows:

"§10-27 Covenants in resolution authorizing revenue bonds. Any resolution or resolutions authorizing the issuance of revenue bonds under this part may contain covenants as to:

- (1) The purpose or purposes to which the proceeds of the sale of revenue bonds may be applied; the use and disposition of such proceeds; the investment thereof pending such use and disposition; and the use and disposition of the income from such investment;
- (2) The use and disposition of the revenue of the office project or projects or the loan program or programs for ~~[the construction or maintenance of]~~ which the revenue bonds are issued are to be included; the use and disposition of the revenue of all office projects~~;~~ and loan programs, and of the revenues of the office, including the creation and maintenance of reserves; the investment of such revenues and of the moneys in such reserves; and the use and disposition of the income from such investments;
- (3) The minimum amount of revenues to be produced by the office projects, the loan programs, or the office, over and above the amount required to be produced by the first sentence and paragraphs (1) to (3) of section 10-31;
- (4) The use and disposition of the proceeds of the sale of any office project, or part thereof;
- (5) The acquisition, purchase, construction, reconstruction, improvement, betterment, extension, and maintenance of any office project other than the office project or projects for the construction or maintenance of which revenue bonds are issued;
- (6) The issuance of other or additional revenue bonds payable either from the revenue of the office project or projects or the loan program or programs for ~~[the construction or maintenance of]~~ which the revenue bonds are issued or from the revenue of the office or payable from the revenue of other office projects~~;~~ or loan programs;
- (7) The maintenance of the office project~~;~~ and administration of the loan program, including the creation by the board of such supervisory positions, which shall not be subject to chapter 76, as are necessary to facilitate the issuance of revenue bonds by ensuring the adequacy of revenues;
- (8) The insurance to be carried on office projects or for loan programs and the use and disposition of insurance moneys;
- (9) Books of account and inspection and audit thereof;
- (10) A procedure by which the terms and conditions of the bond resolution or indenture may be subsequently amended or modified with the consent of the board, the vote or written assent of the holders of bonds or any proportion of the holders, or any trustee thereof; and
- (11) The terms and conditions upon which the holders of revenue bonds ~~[evidencing the obligation to repay loans]~~, or any proportion of the holders, or any trustee thereof, shall be entitled to the appointment of a receiver by any court of competent jurisdiction, which court shall have jurisdiction in such proceedings, and which receiver may enter and take possession of the office project or projects, maintain them, prescribe rents, fees, and charges~~;~~ therefrom, enforce or foreclose loans, and collect, receive, and apply all revenue thereafter arising therefrom in the same manner as the board itself might do, but the receiver shall have no power, nor be granted any power, to utilize, or permit the utilization of, any office project or to enforce

any loan agreement other than in a manner consistent with and in furtherance of the purposes of the office.

This part and any such resolution or resolutions shall be a contract with the holders of bonds issued under this part, and the duties of the board and any such resolution or resolutions shall be enforceable by any bondholder by mandamus or other appropriate suit, action, or proceeding in any court of competent jurisdiction."

SECTION 8. Section 10-28, Hawaii Revised Statutes, is amended to read as follows:

"§10-28 Validity of bonds. Revenue bonds issued under this part shall bear the manual signatures of the chairperson of the board and the administrator, and shall be sealed with the seal of the board or in lieu thereof shall bear a lithographed or engraved facsimile of [sueh] the seal. If the board designates a registrar other than itself for the revenue bonds, the resolution authorizing the revenue bonds may provide that none of the revenue bonds shall be valid or obligatory for any purpose unless authenticated by the registrar. If the resolution so provides, then all signatures of the board upon the revenue bonds may be facsimiles of the signatures, and the revenue bonds shall be valid and obligatory only if authenticated by the manual signature of an authorized officer or signatory of the registrar. Revenue bonds bearing the signature of officers in office at the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon shall have ceased to be officers. The validity of the bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, betterment, extension, or maintenance of the office project or projects or the establishment, funding, or administration of the loan program or programs for which the bonds were issued. The resolution authorizing the issuance of revenue bonds may provide that the bonds shall contain a recital that they are issued pursuant to this part, which recital shall be conclusive evidence of their validity and of the regularity of their issuance."

SECTION 9. Section 10-29, Hawaii Revised Statutes, is amended to read as follows:

"[§10-29] Bonds. The resolution or resolutions authorizing the issuance of revenue bonds may pledge to the payment thereof all or any part of the revenue of an office project or projects, of a loan program or programs, or of the office, and the pledge shall constitute a lien on the revenue of such project or projects, of such loan program or programs, or of the office to the extent and in the manner in the resolution or resolutions provided prior and paramount to any claim or other obligation of any nature against the revenue so pledged subsequently arising or subsequently incurred. The board may provide in the resolution or resolutions that all revenue bonds of the same issue shall be equally and ratably secured without priority by reason of number, date, or maturity of the bonds, date of sale, execution, or delivery thereof. Any pledge of revenues contained in any resolution or resolutions adopted under this part shall be valid and binding from and after the adoption of the resolution or resolutions without physical delivery of the revenues therein pledged or the necessity of any further action by the State or the board, or any officer or agent of either the State or board."

SECTION 10. Section 10-30, Hawaii Revised Statutes, is amended to read as follows:

“§10-30 Payment and security of revenue bonds; revenue bonds not a debt of the State. Revenue bonds issued under this part shall be payable from and secured solely by the revenues of the office project or projects, the revenues of the loan program or programs, or revenues of the office pledged to the payment thereof, or both, and those revenues shall be applied to the payment in accordance with the provisions of this part and the resolution or resolutions authorizing the issuance of the revenue bonds. No holder or holders of any revenue bonds issued under this part shall have the right to compel any exercise of the taxing power of the State or the making of any appropriation to pay the revenue bonds, or interest thereon. Each revenue bond shall recite in substance that the revenue bond, including interest thereon, is payable solely from and secured by the revenue pledged to the payment thereof, and that the bond does not constitute a general or moral obligation or indebtedness of the State within the meaning of any law.”

SECTION 11. Section 10-31, Hawaii Revised Statutes, is amended to read as follows:

“§10-31 Office of Hawaiian affairs projects and loan programs to be self-supporting. The board shall impose and collect rates, rents, fees, and charges for the use or enjoyment and services of the facilities of each office project[;] or for each loan program, as applicable, and shall revise such rates, rents, fees, and charges, whenever necessary, or direct all or any portion of the revenues of the office, so that in the aggregate, the revenues of the office project or the loan program, and the revenues of the office shall produce revenue at least sufficient to:

- (1) Pay the cost of maintenance of the office project or projects[;] or administering the loan program or programs, including reserves therefor;
- (2) Pay when due all bonds and interest thereon, for the payment of which the revenue is or has been pledged, charged, or otherwise encumbered, including reserves therefor;
- (3) Reimburse the general fund of the State for any bond requirements on general obligation bonds issued for an office project or projects or for a loan program or programs to the extent required by law; and
- (4) Carry out all covenants and provisions of the resolution or resolutions authorizing the issuance of revenue bonds.

Neither this section nor any other section of this part shall preclude the making of appropriations to the board, the acceptance of gifts by the board, or the use of revenues of the office or other funds derived from the sale of stocks, bonds, or other assets in the possession of the board to pay all or part of the costs of construction, of maintenance, or both, of any or all office projects[;] or the administration of any loan program.

All moneys received pursuant to this section shall be administered as trust funds, as provided by this chapter, and in separate accounts designated for each office project[;] or loan program.”

SECTION 12. Section 10-32, Hawaii Revised Statutes, is amended to read as follows:

“[[§10-32]] Office of Hawaiian affairs [project] projects, loan programs, and bonds exempt from taxation. The property and revenue of any office project or loan program shall be exempt from all state, county, and municipal taxation and assessments. Revenue bonds issued under this part, and all income therefrom shall be exempt from all state, county, and municipal taxation except inheritance, transfer, and estate taxes.”

SECTION 13. Section 10-34, Hawaii Revised Statutes, is amended to read as follows:

“[[§10-34]] Funding and refunding bonds; authorization and purpose. The board may, without further authorization from the legislature, may provide for the issuance of revenue bonds (herein referred to as refunding bonds) for the purpose of refunding, redeeming, or retiring at or at any time before maturity or at any time before the first date upon which the outstanding bonds to be refunded may be called for redemption, any bonds issued under this part, including any bonds which the holders may consent to be paid or refunded even though the bonds are not matured or are not callable or redeemable, and for the purpose of funding indebtedness not evidenced by revenue bonds but which was incurred for purposes for which revenue bonds may be issued pursuant to this part. The rate or rates of interest borne by the refunding bonds shall not be affected or limited by the rate or rates of interest borne by the bonds to be refunded or the indebtedness to be funded. All provisions of this part applicable to the issuance of revenue bonds shall be complied with in the issuance of refunding bonds. Refunding bonds shall be sold as provided in section 10-25, or the board may, in its discretion, provide for the exchange of refunding bonds for a like principal amount of outstanding bonds for the refunding of which the issuance of such refunding bonds has been authorized, whether or not the interest rate on the refunding bonds is higher than the interest rate on the bonds refunded thereby.”

SECTION 14. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 15. This Act shall take effect upon its approval.

(Approved June 24, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 172

S.B. NO. 1071

A Bill for an Act Relating to Financial Institutions.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. Chapter 412, Hawaii Revised Statutes, is amended by adding a new section to article 2 to be appropriately designated and to read as follows:

“§412:2- Powers of the commissioner. In addition to any other powers provided by law, the commissioner shall have the authority to:

- (1) Administer and enforce the provisions and requirements of this chapter;
- (2) Adopt, amend, or repeal rules or issue declaratory rulings pursuant to chapter 91 to effectuate the purposes of this chapter;
- (3) Issue informal nonbinding interpretations to effectuate the purposes of this chapter;
- (4) Develop requirements for charter or licensure through rules;
- (5) Investigate and conduct hearings regarding any violation of this chapter or any rule or order of, or agreement with, the commissioner; and
- (6) Require a licensed or chartered entity or other entity with a certificate of authority to comply with any rule, guidance, guideline, statement, supervisory policy, or any similar proclamation issued or adopted by the appropriate federal regulatory authority.”

SECTION 2. Section 412:1-109, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “appropriate federal regulatory agency” to read as follows:

““Appropriate federal regulatory agency” means, with respect to a financial institution or financial institution holding company, any one or more regulatory agencies of the federal government referred to in the following sentence which either (1) insures the deposits of the financial institution or financial institution holding company, or (2) has the power and duty to conduct periodic general examinations of the affairs of the financial institution or financial institution holding company by virtue of the legal characterization of the financial institution or financial institution holding company under federal law, and not by virtue of the fact of affiliation of the financial institution or financial institution holding company with any other person or an alleged violation of a specific law. Subject to the preceding sentence, an appropriate federal regulatory agency may ~~be~~ include the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Reserve Board, ~~[the Office of Thrift Supervision,]~~ the National Credit Union Administration, the Consumer Financial Protection Bureau, or any regulatory agency of the federal government which shall succeed to the insurance or supervisory duties of one of the foregoing.”

2. By amending the definition of “deposit” or “deposits” to read as follows:

““Deposit” or “deposits” means money or its equivalent received or held by a person in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to a demand, checking, savings, time, passbook, negotiable order of withdrawal, thrift, or share account, or which is evidenced by its passbook, certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument, or a check, draft, or share draft drawn against a deposit account and certified by a person, on which the person is primarily liable. A deposit includes all funds underlying prepaid access cards or stored value cards and other non-traditional access mechanisms to the extent that the funds have been placed in a depository institution.”

SECTION 3. Section 412:3-501, Hawaii Revised Statutes, is amended to read as follows:

“§412:3-501 Authorized places of business. (a) A Hawaii financial institution may conduct business at one or more of the following places of business, to the extent authorized:

- (1) The principal office of a Hawaii financial institution is the place of business that it designates as its executive headquarters in this State. A financial institution may, but need not, conduct other businesses permitted under its charter or license at its principal office; provided that for the purposes of this section, the terms “principal office”, “home office”, and “main office” are interchangeable;
- (2) A branch is a place of business open to the public where a financial institution shall be authorized to conduct all businesses permitted under its charter or license, except for the maintenance of its executive headquarters[;]. A branch does not include an automated teller machine or a remote service unit;
- (3) An agency is a place of business open to the public where a financial institution may conduct only specific businesses approved by the commissioner in writing;
- (4) An ~~[automatic]~~ automated teller machine or ATM is a place of business, either at a fixed location or mobile, consisting of an on-line or off-line, staffed or unstaffed, electronic processing device, including associated equipment and structures, that is situated at a premises separate from a financial institution’s principal office, branch, agency, or support facility, at which deposits of cash or instruments, or cash disbursement transactions between a person and one or more financial institutions are accomplished, whether instantaneous or otherwise, through or by means of electronic or automated signals or impulses including the human voice[; ~~provided that it shall not mean a telephone or an electronic processing device situated at or within the premises of a bank customer that is used only for transactions between that customer and the financial institution~~]. The term does not include merchant operated terminals ~~[and]~~, point of sale terminals[;], and remote service units;
- (5) A remote service unit is a place of business, consisting of an on-line or off-line, staffed or unstaffed, electronic processing device, including associated equipment and structures, that is used only for transactions between a financial institution customer and the financial institution, and that is situated at premises separate from a financial institution’s principal office, branch, agency, or support facility, at which deposits of cash or instruments, or cash disbursement transactions, are accomplished, whether instantaneous or otherwise, through or by means of electronic or automated signals or impulses including the human voice; and
- ~~[(5)]~~ (6) A support facility is a place of business that is not generally open to the public, where a financial institution conducts limited types of significant business operations of the financial institution, including but not limited to data processing, clerical activities, and storage.

(b) In addition to conducting business at a place of business described in subsection (a), a Hawaii financial institution may conduct business in any other manner or place necessary or convenient; provided that deposits of cash or instruments shall not be received, checks, negotiable orders of withdrawal, or share drafts shall not be paid, and cash shall not be disbursed, except at an authorized principal office, branch ~~[or automatic]~~, automated teller machine, or remote service unit, or at any agency or support facility which has been authorized by the commissioner to accept deposits or disburse cash.”

SECTION 4. Section 412:5-203, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) "Operating subsidiary" means a corporation other than a corporation referred to in section 412:5-305(g)(2) to (8) of which more than ~~[eighty]~~ fifty per cent of the voting securities is held directly or indirectly by a bank.

(b) An operating subsidiary may engage in activities that are authorized for a bank, including those under section 412:5-305 and title 12 Code of Federal Regulations part 362, or that are usual or incidental to the business of a bank."

SECTION 5. Section 412:5-302, Hawaii Revised Statutes, is amended to read as follows:

"§412:5-302 Limitations on loans and extensions of credit to one borrower.

(a) No bank shall permit a person to become indebted or liable to it, either directly or indirectly on loans and extensions of credit, including any credit exposure arising out of derivative transactions entered into by a bank and its subsidiaries, in a total amount outstanding at any one time in excess of twenty per cent of the capital and surplus of the bank.

(b) As used in this section, a "derivative transaction" includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, any quantitative measure of or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets.

~~[(b)]~~ (c) This section applies to all loans and extensions of credit made and to all credit exposure arising out of derivative transactions entered into by a bank and its subsidiaries. It does not apply to loans and extensions of credit made by a bank or its subsidiaries to its affiliates or subsidiaries.

~~[(e)]~~ (d) The limitations set forth in this section shall not apply to:

- (1) A bank's eligible acceptances as described in section 412:5-204(b);
- (2) A bank's purchase or discount of another bank's acceptances of the kinds described in section 13 of the Federal Reserve Act;
- (3) A bank's deposits with a Federal Reserve Bank, Federal Home Loan Bank, or another depository institution made in compliance with this chapter;
- (4) A bank's sale of federal funds to another depository institution with a maturity of one business day or under a continuing contract;
- (5) Loans and extensions of credit secured by the interest-bearing obligations of the United States or those for which the faith and credit of the United States are distinctly pledged to provide for the payment of the principal and interest thereof or of the State or any county or municipal or political subdivision of this State, issued in compliance with the laws of this State, where the market value of the security shall be at any time not less than one hundred five per cent of the face amount of the loans and extensions of credit;
- (6) Loans and extensions of credit to the extent secured by a pledge or security interest in a deposit account in the lending bank; and
- (7) Loans and extensions of credit arising from the discount of negotiable or nonnegotiable credit sales contracts which carry a partial recourse endorsement or limited guarantee by the person transferring the credit sales contracts, if the bank's respective file or the knowledge of its officers of the financial condition of each maker of ~~[such]~~ the credit sales contract is reasonably adequate, and an officer of the bank certifies in writing that the bank is relying primarily upon the responsibility of each maker for payment of ~~[such]~~ the credit sales

contract, and not upon any partial recourse endorsement or limited guarantee by the transferor. Under these circumstances, ~~such~~ the credit sales contract will be considered a loan and extension of credit to the maker of the credit sales contract rather than the seller of the credit sales contract.

~~[(d)]~~ (e) In computing the total loans and extensions of credit made by a bank to any person, all loans and extensions of credit by the bank to the person and to any partnership, joint venture, or unincorporated association of which the person is a partner or a member and all credit exposure arising from a derivative transaction with any person and with any partnership, joint venture, or unincorporated association of which the person is a partner or a member shall be included unless the person is a limited partner, but not a general partner, in a limited partnership, or unless the person is a partner in a limited or general partnership, or a member of a joint venture or unincorporated association, if such partner or member, by law, by the terms of the partnership, joint venture, or membership agreement, or by the terms of an agreement with the bank, is not to be held liable to the bank for the debts of the partnership, joint venture,¹ or association. In computing the total loans and extensions ~~of~~ of credit made by a bank to any firm, partnership, joint venture, or unincorporated association, all loans and extensions of credit to and all credit exposure arising from a derivative transaction with its individual partners or members shall be included unless such individual partner is a limited partner, but not a general partner, in a limited partnership, or unless such individual partner or member, by law, by the terms of the partnership, joint venture, or membership agreement, or by the terms of an agreement with the bank, is not to be held liable to the bank for the debts of the partnership, joint venture, or association.

~~[(e)]~~ (f) Alternatively, a bank may, with the prior approval of the commissioner, comply with the lending limits applicable to ~~[national banking associations]~~ federal financial institutions, as and to the same extent it would, at the time, be so required by federal law or regulation if it were a ~~[national banking association]~~ federal financial institution. A bank utilizing this alternative shall use a single method for calculating lending limits, including any credit exposure to the person arising from a derivative transaction, repurchase agreement, reverse purchase agreement, securities lending transaction, or securities borrowing transaction between the bank and the person. In monitoring a bank's compliance with the ~~[national banking association]~~ federal financial institution lending limits, the commissioner shall give substantial weight to the Office of the Comptroller of the Currency's regulations and opinions interpreting the ~~[national banking association]~~ federal financial institution lending limits ~~[and]~~, including but not limited to those related to the internal model method or the conversion factor matrix method for calculating credit exposure to derivative transactions as described in title 12 Code of Federal Regulations Part 32 of the Interim Rule as may be amended. The commissioner will regard ~~them~~ the regulations and opinions as strong evidence of safe and sound banking practices."

SECTION 6. Section 412:5-305, Hawaii Revised Statutes, is amended by amending subsections (f) and (g) to read as follows:

"(f) To the extent specified herein, a bank may purchase, hold, convey, sell, or lease real or personal property as follows:

- (1) The real property in or on which the business of the bank is carried on, including its banking offices~~[-]~~; other space in the same property to rent as a source of income; permanent or vacation residences or recreational facilities for its officers and employees; other real property necessary to the accommodation of the bank's business, includ-

ing but not limited to parking facilities, data processing centers, and real property held for future banking use where the bank in good faith expects to [utilize] use the property as bank premises; provided[;] that if the bank ceases to use any real property and improvements thereon for one of the foregoing purposes, it shall, within five years thereafter, sell the real property ~~[or]~~, cease to carry it or them as an asset[;], or transfer the real property to an operating subsidiary of the bank; provided further that the bank's investment in such operating subsidiary shall not exceed fifteen per cent of the bank's tier one capital; provided further, such property shall not without the approval of the commissioner exceed seventy-five per cent of the bank's capital and surplus;

- (2) Personal property used in or necessary to the accommodation of the bank's business, including but not limited to furniture, fixtures, equipment, vaults, and safety deposit boxes. The bank's investment in furniture and fixtures shall not without the approval of the commissioner exceed twenty-five per cent of the bank's capital and surplus;
- (3) Personal property and fixtures which the bank acquires for purposes of leasing to third parties, and such real property interests as shall be incidental thereto;
- (4) Such real property or tangible personal property as may come into its possession as security for loans or in the collection of debts; or as may be purchased by or conveyed to the bank in satisfaction of or on account of debts previously contracted in the course of its business, when such property was held as security by the bank; and
- (5) The seller's interest under an agreement of sale, as that term is defined in sections 501-101.5,¹ and 502-85, including without limitation the reversionary interest in the real estate and the right to income under the agreement of sale, with or without recourse to the seller.

Except as otherwise authorized in this section any tangible personal property acquired by a bank pursuant to subsection (f)(4) shall be disposed of as soon as practicable and shall not without the written consent of the commissioner be considered a part of the assets of the bank after the expiration of two years from the date of acquisition.

Except as otherwise authorized in this section any real property acquired by a bank pursuant to subsection (f)(4) shall be sold or exchanged for other real property by the bank within five years after title thereto has vested in it by purchase or otherwise, or within such further time as may be granted by the commissioner.

Any bank acquiring any real property in any manner other than provided by this section shall immediately, upon receiving notice from the commissioner, charge the same to profit and loss, or otherwise remove the same from assets, and when any loss impairs the capital and surplus of the bank the impairment shall be made good in the manner provided in this chapter.

For purposes of this subsection, "tier one capital" has the same meaning as "tier 1 capital" as set forth in title 12 Code of Federal Regulations section 325.2(v).

- (g) A bank may own or control ~~[the capital stock]:~~
- (1) ~~[Of operating]~~ Operating subsidiaries, or the parent of the operating subsidiary, as set forth in this article;
- (2) ~~[Of a]~~ A corporation, partnership, or limited liability company, organized and existing for the ownership of real or personal property

used or which the bank in good faith expects to be used in the bank's business[;] or used for a permissible purpose under title 12 Code of Federal Regulations part 362:

- (3) [~~Of~~] The capital stock of the Federal National Mortgage Association, the Student Loan Marketing Association, Federal Home Loan Mortgage Corporation, or of any other corporation organized for substantially the same purposes; provided that this subsection shall be deemed to authorize subscription for as well as purchase of the stock;
- (4) [~~Of~~] A small business investment [~~companies~~] company operating under the Federal Small Business Investment Act of 1958;
- (5) [~~Of bank~~] Bank service corporations, subject to the Bank Service [~~Corporation~~] Company Act, 12 [U.S.C. §§] United States Code sections 1861-1862;
- (6) [~~Of a~~] A corporation whose stock is acquired or purchased to save a loss on a preexisting debt secured by such stock; provided, that the stock shall be sold within twelve months of the date acquired or purchased, or within such further time as may be granted by the commissioner;
- (7) [~~Of an~~] An international banking corporation established pursuant to article 5A [~~of this chapter~~] or an Edge corporation or an Agreement corporation established or authorized pursuant to section 25a of the Federal Reserve Act, 12 [U.S.C. §] United States Code section 631;
- (8) [~~Of a~~] A captive insurance company incorporated under the laws of the United States, or any state or territory thereof, or the District of Columbia;
- (9) [~~Of a~~] A company transacting a business of insurance or the sale of annuities pursuant to the authority conferred in section 412:5-205.5; and
- (10) [~~Of a~~] A company engaging in securities activities pursuant to the authority conferred in section 412:5-205.7.”

SECTION 7. Section 412:6-303, Hawaii Revised Statutes, is amended to read as follows:

“§412:6-303 Limitations on loans and extensions of credit to one borrower.

(a) No savings bank shall permit a person to become indebted or liable to it, either directly or indirectly, on loans and extensions of credit, including any credit exposure arising out of derivative transactions entered into by a savings bank and its subsidiaries, in a total amount outstanding at any one time in excess of twenty per cent of the capital and surplus of the savings bank.

(b) As used in this section, a “derivative transaction” includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, any quantitative measure of, or the occurrence of any event relating to one or more commodities, securities, currencies, interest or other rates, indices, or other assets.

~~[(b)]~~ (c) This section applies to all loans ~~[and]~~, extensions of credit made, and credit exposure arising out of derivative transactions entered into, by a savings bank and its subsidiaries. It does not apply to loans and extensions of credit made by a savings bank or its subsidiaries to its affiliates or subsidiaries.

~~[(e)]~~ (d) The limitations set forth in this section shall not apply to:

- (1) A savings bank's deposits with a Federal Reserve Bank, Federal Home Loan Bank, or another depository institution made in compliance with this chapter;
- (2) A savings bank's sale of federal funds to another depository institution with a maturity of one business day or under a continuing contract;
- (3) Loans and extensions of credit secured by the interest-bearing obligations of the United States or those for which the faith and credit of the United States are distinctly pledged to provide for the payment of the principal and interest thereof or of the State or any county or municipal or political subdivision of this State, issued in compliance with the laws of this State, where the market value of the security shall be at any time not less than one hundred five per cent of the face amount of the loans and extensions of credit;
- (4) Loans and extensions of credit to the extent secured by a pledge or security interest in a deposit account in the savings bank serving as the lender; and
- (5) Loans and extensions of credit arising from the discount of negotiable or nonnegotiable credit sales contracts which carry a partial recourse endorsement or limited guarantee by the person transferring the credit sales contract, if the savings bank's respective file or the knowledge of its officers of the financial condition of each maker of ~~[such]~~ the consumer paper is reasonably adequate, and an officer of the savings bank certifies in writing that the savings bank is relying primarily upon the responsibility of each maker for payment of ~~[such]~~ the credit sales contract,¹ and not upon any partial recourse endorsement or limited guarantee by the transferor. Under these circumstances, ~~[such]~~ the credit sales contract will be considered a loan and extension of credit to the maker of the credit sales contract rather than the seller of the credit sales contract.

~~[(d)]~~ (e) In computing the total loans and extensions of credit made by a savings bank to any person, all loans and extensions of credit by the savings bank to the person and to any partnership, joint venture, or unincorporated association of which the person is a partner or a member and all credit exposure arising from a derivative transaction with any person and with any partnership, joint venture, or unincorporated association of which the person is a partner or a member shall be included unless the person is a limited partner, but not a general partner, in a limited partnership, or unless the person is a partner in a limited or general partnership, or a member of a joint venture or unincorporated association, if such partner or member, by law, by the terms of the partnership, joint venture, or membership agreement, or by the terms of an agreement with the savings bank, is not to be held liable to the savings bank for the debts of the partnership, joint venture, or association. In computing the total loans and extensions ~~[of]~~ credit made by a savings bank to any firm, partnership, joint venture, or unincorporated association, all loans and extensions of credit to and all credit exposure arising from a derivative transaction with its individual partners or members shall be included unless such individual partner is a limited partner, but not a general partner, in a limited partnership, or unless such individual partner or member, by law, by the terms of the partnership, joint venture, or membership agreement, or by the terms of an agreement with the savings bank, is not to be held liable to the savings bank for the debts of the partnership, joint venture, or association.

~~[(e)]~~ (f) Alternatively, a savings bank may, with the prior approval of the commissioner, comply with the lending limits applicable to ~~[national banking]~~

associations,] federal financial institutions, as and to the same extent it would, at the time, be so required by federal law or regulation if it were a [national banking association-] federal financial institution. A savings bank utilizing this alternative shall use a single method for calculating lending limits, including any credit exposure to the person arising from a derivative transaction, repurchase agreement, reverse purchase agreement, securities lending transaction, or securities borrowing transaction between the savings bank and the person. In monitoring a savings bank's compliance with the [national banking association] federal financial institution lending limits, the commissioner shall give substantial weight to the Office of the Comptroller of the Currency's regulations and opinions interpreting the [national banking association] federal financial institution lending limits [and], including but not limited to those related to the internal model method or the conversion factor matrix method for calculating credit exposure to derivative transactions as described in title 12 Code of Federal Regulations Part 32 of the Interim Rule as may be amended. The commissioner will regard [them] the regulations and opinions as strong evidence of safe and sound banking practices."

SECTION 8. Section 412:9-200, Hawaii Revised Statutes, is amended to read as follows:

"§412:9-200 General powers. Except as expressly prohibited or limited by this chapter, a financial services loan company shall have the power to make loans where the interest charged, contracted for, or received is in excess of rates permitted by law, other than this article, and to engage in other activities that are usual or incidental to the business for which it is licensed, and shall have all rights, powers, and privileges of a corporation organized under the laws of this State, including but not limited to, the power to:

- (1) Make loans and extensions of credit of any kind, whether unsecured or secured by real or personal property of any kind or description;
- (2) Borrow money from any source within or without this State;
- (3) Charge or retain a fee for the originating, selling, brokering, or servicing of loans and extensions of credit;
- (4) Discount, purchase, or acquire loans, including but not limited to notes, credit sales contracts, mortgage loans, or other instruments;
- (5) Become the legal or beneficial owner of tangible personal property and fixtures and such other real property interests as shall be incidental thereto, to lease such property, to obtain an assignment of a lessor's interest in a lease of the property, and to incur obligations incidental to the financial services loan company's position as the legal or beneficial owner and the lessor of the property;
- (6) Sell or refer credit related insurance products, and collect premiums or fees for the sale or referral thereof, including, but not limited to, credit life insurance, credit disability insurance, accident, and health or sickness insurance, involuntary unemployment insurance, personal property insurance, and mortgage protection insurance;
- (7) Make investments as permitted under this article; [and]
- (8) Charge to a borrower a returned check fee if a check that has been tendered by the borrower in payment on account of a loan is returned unpaid; provided that:
 - (A) The fee shall not exceed \$20;
 - (B) The fee shall be imposed under a separate billing, and shall not be added to a borrower's outstanding loan balance nor deducted from a loan payment; and

- (C) A failure to pay the fee shall not constitute a default under any outstanding loan agreement between the borrower and the financial services loan company[-]; and
- (9) Charge to a borrower a "below minimum draft fee" of \$10 per draft for the processing costs involved on a draft written below the minimum amount established on an open-ended loan."

SECTION 9. Section 412:9-404, Hawaii Revised Statutes, is amended to read as follows:

"§412:9-404 [Limitation] Limitations on loans and extensions of credit to one borrower. (a) No depository financial services loan company shall permit a person to become indebted or liable to it, either directly or indirectly, on loans and extensions of credit, including any credit exposure arising out of derivative transactions entered into by a depository financial services loan company and its subsidiaries, in a total amount outstanding at any one time in excess of twenty per cent of the depository financial services loan company's capital and surplus; provided that such aggregate amount may be increased to one hundred per cent of the depository financial services loan company's capital and surplus if the loans and extensions of credit made to the person in excess of twenty per cent of the depository financial services loan company's capital and surplus are fully secured by real property as provided in section 412:9-405.

(b) As used in this section, a "derivative transaction" includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, any quantitative measure of, or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets.

~~[(b)]~~ (c) The limitations set forth in this section shall not apply to:

- (1) Loans and extensions of credit to the extent secured by a pledge or security interest in a deposit account in the lending depository financial services loan company; and
- (2) Loans and extensions of credit secured by the interest-bearing obligations of the United States or those for which the faith and credit of the United States are distinctly pledged to provide for the payment of principal and interest thereof or of the State or any county or municipal or political subdivision of this State, issued in compliance with the laws of this State, where the market value of the security shall be at any time not less than one hundred five per cent of the face amount of the loans and extensions of credit.

(d) In computing the total loans and extensions of credit made by a depository financial services loan company to any person, all loans and extensions of credit by the depository financial services loan company to the person and to any partnership, joint venture, or unincorporated association of which the person is a partner or a member and all credit exposure arising from a derivative transaction with any person and with any partnership, joint venture, or unincorporated association of which the person is a partner or a member shall be included unless the person is a limited partner, but not a general partner, in a limited partnership, or unless the person is a partner in a limited or general partnership, or a member of a joint venture or unincorporated association, if such partner or member, by law, by the terms of the partnership, joint venture, or membership agreement, or by the terms of an agreement with the depository financial services loan company, is not to be held liable to the depository financial services loan company for the debts of the partnership, joint venture, or association. In computing the total loans and extensions of credit made by a

depository financial services loan company to any firm, partnership, joint venture, or unincorporated association, all loans and extensions of credit to and all credit exposure arising from a derivative transaction with its individual partners or members shall be included unless such individual partner is a limited partner, but not a general partner, in a limited partnership, or unless such individual partner or member, by law, by the terms of the partnership, joint venture, or membership agreement, or by the terms of an agreement with the depository financial services loan company, is not to be held liable to the depository financial services loan company for the debts of the partnership, joint venture, or association.

(e) Alternatively, a depository financial services loan company, with the prior approval of the commissioner, may comply with the lending limits applicable to federal financial institutions as and to the same extent it would, at the time, be so required by federal law or regulation if it were a federal financial institution. A depository financial services loan company utilizing this alternative shall use a single method for calculating lending limits, including any credit exposure to the person arising from a derivative transaction, repurchase agreement, reverse purchase agreement, securities lending transaction, or securities borrowing transaction between the depository financial services loan company and the person. In monitoring a depository financial services loan company's compliance with the federal financial institution lending limits, the commissioner shall give substantial weight to the Office of the Comptroller of the Currency's regulations and opinions interpreting the federal financial institution lending limits, including but not limited to those related to the internal model method or the conversion factor matrix method for calculating credit exposure to derivative transactions as described in title 12 Code of Federal Regulations Part 32 of the Interim Rule as may be amended. The commissioner will regard the regulations and opinions as strong evidence of safe and sound banking practices."

PART II

SECTION 10. Chapter 412, Hawaii Revised Statutes, is amended by adding a new section to article 2 to be appropriately designated, and to read as follows:

"§412:2- Hawaii financial institutions; assessments; fees; penalty. (a) Beginning January 1, 2014, every Hawaii financial institution shall be assessed a yearly fee in accordance with the following:

- (1) For financial institutions with total assets under \$750,000, the assessment shall be the sum of \$1,000 plus the product of 0.00029111 times total assets;
- (2) For financial institutions with total assets of at least \$750,000 but under \$7,500,000, the assessment shall be the sum of \$2,000 plus the product of 0.00029111 times total assets;
- (3) For financial institutions with total assets of at least \$7,500,000 but under \$20,000,000, the assessment shall be the sum of \$4,800 plus the product of 0.00029111 times total assets;
- (4) For financial institutions with total assets of at least \$20,000,000 but under \$75,000,000, the assessment shall be the sum of \$9,900 plus the product of 0.000064 times total assets;
- (5) For financial institutions with total assets of at least \$75,000,000 but under \$200,000,000, the assessment shall be the sum of \$15,000 plus the product of 0.00005333 times total assets;

- (6) For financial institutions with total assets of at least \$200,000,000 but under \$1,000,000,000, the assessment shall be the sum of \$21,100 plus the product of 0.00004750 times total assets;
- (7) For financial institutions with total assets of at least \$1,000,000,000 but under \$20,000,000,000, the assessment shall be the sum of \$29,000 plus the product of 0.00004 times total assets;

provided that the yearly fee assessed for financial institutions with total assets of at least \$2,000,000,000 but less than \$10,000,000,000 shall be no more than \$100,000, and the yearly fee assessed for financial institutions with total assets of at least \$10,000,000,000 shall be no more than \$150,000.

(b) The assessments shall be paid semiannually on February 15 and August 15 of each year based on the institution's total assets reported as of the previous December 31 and June 30, respectively; provided that the payments of the assessment shall commence on February 15, 2014.

(c) In addition to the assessments established in subsection (a), a financial institution or financial institution applicant shall pay fees as follows:

- (1) A nonrefundable fee of \$10,000 for an application for preliminary approval by the commissioner for the organization of a Hawaii financial institution pursuant to section 412:3-201, 412:3-202, 412:3-206, 412:3-301, or 412:5-205;
- (2) A nonrefundable fee of \$9,000 for an application for preliminary approval by the commissioner for the organization of a Hawaii financial institution pursuant to section 412:5-402;
- (3) A nonrefundable fee of \$2,500 for a final application for a charter or license to engage in the business of a Hawaii financial institution pursuant to section 412:3-212;
- (4) A nonrefundable fee of \$2,500 for a final application for a charter or license to engage in the business of a savings bank pursuant to section 412:6-101;
- (5) A nonrefundable fee of \$2,500 for a final application for a charter or license to engage in the business of a trust company pursuant to section 412:8-102;
- (6) A nonrefundable fee of \$10,000 for an application for a merger or consolidation or acquisition of control involving a Hawaii financial institution;
- (7) A nonrefundable fee of \$10,000 for an application for the acquisition of control of a Hawaii financial institution;
- (8) A nonrefundable fee of \$2,500 for an application for the conversion of a federal financial institution to a Hawaii financial institution or the conversion of a Hawaii financial institution to another Hawaii financial institution charter;
- (9) A nonrefundable fee of \$5,000 for an application of a bank to conduct a trust business through a subsidiary, division, or department of the bank pursuant to 412:5-205;
- (10) A nonrefundable fee of \$5,000 for an application of a bank to conduct insurance activities pursuant to section 412:5-205.5;
- (11) A nonrefundable fee of \$5,000 for an application of a bank to engage in securities activities pursuant to section 412:5-205.7;
- (12) A nonrefundable fee of \$2,000 for an application for a bank or savings bank to comply with lending limits applicable to federal financial institutions pursuant to section 412:5-302 or section 412:6-303;
- (13) A nonrefundable fee of \$2,000 for an application to exceed certain permitted investment limits pursuant to sections 412:5-305(f) and

(h), 412:6-306(f) and (h), 412:7-306(f) and (h), 412:8-301(f), 412:9-409(f) and (i), and 412:10-502(g); and

- (14) A nonrefundable fee of \$2,500 for an application for a charter of a credit union.

(d) Beginning January 1, 2014, the annual fee for each intra-Pacific financial institution and interstate branch of out of state banks is the sum of \$1,000 for each office, agency, and branch office maintained by the financial institution, payment of which shall be made before December 31 of each year. The commissioner may establish, increase, decrease, or repeal this fee pursuant to rules adopted in accordance with chapter 91.

(e) Intra-Pacific bank fees shall be as follows:

- (1) A nonrefundable fee of \$750 for an application for a branch, subsidiary, or subsidiary of a holding company of an intra-Pacific bank pursuant to section 412:5-402; and

- (2) A nonrefundable fee of \$500 for an application to relocate a branch, subsidiary, or subsidiary of a holding company of an intra-Pacific bank established or acquired pursuant to section 412:5-401.

(f) A nonrefundable fee of \$500 shall be assessed for an application to relocate a branch established pursuant to section 412:12-107.

(g) A nonrefundable fee of \$100 shall be assessed for each certificate of good standing for any Hawaii financial institution; provided that an additional fee of \$100 shall be assessed for each certificate of good standing that is requested to be provided in two business days from receipt of request.

(h) All assessments and fees shall be deposited into the compliance resolution fund established pursuant to section 26-9(o).

(i) For purposes of this section, "total assets" means for an insured depository institution the total assets reported in the financial institution's quarterly reports of condition, or call reports, which are required to be filed pursuant to section 7(a)(3) of the Federal Deposit Insurance Act or in the unaudited financial statements filed pursuant to section 412:3-112.

(j) A Hawaii financial institution that fails to make a payment required by this section shall be subject to an administrative fine of not more than \$250 per day for each day it is in violation of this section, which fine, together with the amount due under this section, may be recovered pursuant to section 412:2-611 and shall be deposited into the compliance resolution fund established pursuant to section 26-9(o)."

SECTION 11. Section 412:2-105, Hawaii Revised Statutes, is amended to read as follows:

"§412:2-105 Fees [and assessments]. ~~[(a) The commissioner may charge an examination fee based upon the cost per hour per examiner for all financial institutions examined by the commissioner or the commissioner's staff. Effective July 1, 1995, the hourly fee shall be \$40. After July 1, 1996, the commissioner may establish, increase, decrease, or repeal the hourly fee when necessary pursuant to rules adopted in accordance with chapter 91.~~

~~(b) In addition to the examination fee, the~~ (a) The commissioner ~~[may]~~ shall charge any financial institution examined ~~[or investigated]~~ by the commissioner or the commissioner's staff, ~~[additional amounts]~~ an amount for travel, per diem, mileage, and other reasonable expenses incurred in connection with the examination.

~~[(e)]~~ (b) The commissioner shall bill the affected financial institution for ~~[examination fees and]~~ expenses as soon as feasible after the close of the examination ~~[or investigation]~~. The affected financial institution shall pay the division

[of financial institutions] within thirty days following the billing. All such payments shall be deposited to the compliance resolution fund established pursuant to section 26-9(o). All disputes relating to these billings between the affected financial institution and the commissioner shall be resolved in accordance with the procedures for contested cases under chapter 91.

~~[(d) The commissioner, by rules adopted in accordance with chapter 91, may set reasonable fee amounts to be collected by the division in connection with its regulatory functions, including, without limitation, any fees for renewals, applications, licenses, and charters. Unless otherwise provided by statute, all such fees shall be deposited into the compliance resolution fund established pursuant to section 26-9(o).]~~

(e) (c) A Hawaii financial institution that fails to make a payment required by this section shall be subject to an administrative fine of not more than \$250 per day for each day it is in violation of this section, which fine, together with the amount due under this section, may be recovered pursuant to section 412:2-611, and shall be deposited into the compliance resolution fund established pursuant to section 26-9(o)."

SECTION 12. Section 412:2-508, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Applications for a provisional approval shall be filed with the commissioner, and shall provide the information required by this chapter for preliminary approval to organize the type of financial institution that will result from the merger or acquisition under this part. The applicant shall also furnish such other information as the commissioner may require, and an application fee [as established by the commissioner.] assessed pursuant to section 412:2-_____."

SECTION 13. Section 412:3-102, Hawaii Revised Statutes, is amended to read as follows:

"§412:3-102 **Change of name.** To change its name, a Hawaii financial institution shall file an application with the commissioner [and pay the fees as the commissioner may establish]. The application shall be approved if the commissioner is satisfied that the new name complies with this chapter and chapter 414. Any change of name of a stock financial institution pursuant to this section shall be effected in accordance with chapter 414. Any change of name shall not affect a financial institution's rights, liabilities, or obligations existing prior to the effective date thereof, and no documents of transfer shall be necessary to preserve the rights, liabilities, or obligations; provided that the commissioner may require notice to be given to the public and other governmental agencies."

SECTION 14. Section 412:3-212, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) If the commissioner is satisfied that the financial institution and, if applicable, its holding company have fulfilled all the requirements of law and the grounds for preliminary approval, and that the financial institution is qualified to engage in the business of a financial institution, the commissioner shall issue a written decision and order approving the application. The order may restrict the payment of dividends for a period of up to three years, and may contain any other conditions and restrictions on the financial institution that are in the public interest, including but not limited to the divestment of any contractual arrangement with an affiliate or subsidiary involving any type of business not permitted under this chapter. Upon the satisfactory fulfillment by the financial institution and, if applicable, its holding company of the conditions in the writ-

ten decision and order approving the application and upon the payment by a depository financial services loan company of ~~[an] the~~ initial license fee ~~[established by rule pursuant to chapter 91,]~~ assessed pursuant to section 412:2-, the commissioner shall issue to the financial institution a charter or license to engage in the business of a financial institution under this chapter."

SECTION 15. Section 412:3-301, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The application shall be submitted on a form prescribed by the commissioner~~[- The application]~~ and shall be accompanied by an application fee ~~[of \$5,000, or such greater amount as the commissioner shall establish by rule pursuant to chapter 91. The application fee shall not be refundable.]~~ assessed pursuant to section 412:2-."

SECTION 16. Section 412:3-304, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) If the commissioner is satisfied that the applicant has fulfilled all the requirements of law and is qualified to engage in the business of a nondepository financial services loan company, the commissioner shall issue a written decision and order approving the application. Upon the approval of the application~~[- the payment of an initial license fee established by rule pursuant to chapter 91,]~~ and, if applicable, upon providing satisfactory evidence to the commissioner of compliance with the requirements of chapter 414 relating to foreign corporations, the commissioner shall issue to the applicant a license to engage in the business of a nondepository financial services loan company under this chapter."

SECTION 17. Section 412:3-505, Hawaii Revised Statutes, is amended to read as follows:

"§412:3-505 Opening or relocating out-of-state branch or agency. With the commissioner's prior written approval, a Hawaii financial institution may open or relocate a branch or agency that is outside of this State, including but not limited to any state, possession, or territory of the United States or any foreign country. An application to open or relocate an out-of-state branch or agency shall be filed in accordance with section 412:3-503~~[- and the commissioner may assess the financial institution any additional expenses as may be reasonably necessary to consider the application].~~"

SECTION 18. Section 412:3-603, Hawaii Revised Statutes, is amended to read as follows:

"§412:3-603 Procedure for applications pursuant to this part. Whenever the written approval of the commissioner is required with respect to any transaction covered by this part, the following procedures shall apply:

- (1) An application for approval by the commissioner pursuant to this part shall be on a form prescribed by the commissioner and shall contain any information, data, and records as the commissioner may require~~[-]~~, and shall be accompanied by a nonrefundable application fee assessed pursuant to section 412:2-. As far as possible consistent with the effective discharge of the commissioner's responsibilities, the commissioner shall prescribe the use of forms currently prescribed by the appropriate federal regulatory agency of financial institutions and financial institution holding companies for identical or similar types of transactions~~[- The application shall~~

be accompanied by an application fee established by the commissioner pursuant to section 412:2-105. The application fee shall not be refundable];

- (2) If any material change occurs in the facts set forth in an application, or if for any other reason the applicant desires to amend the application, an amendment setting forth any change, together with copies of all documents and other material relevant to the change, shall be filed with the commissioner. Within twenty days after receiving an application or any amendment thereto, the commissioner may request any additional information necessary in deciding whether to approve a proposed transaction pursuant to this part. The applicant shall submit the additional information in a reasonable time thereafter, as may be specified by the commissioner;
- (3) If the commissioner would approve a plan of conversion, merger, or consolidation, an acquisition of assets or assumption of liabilities; an acquisition of control, or a voluntary cessation of business or voluntary dissolution, but on terms different than contained in the application, the commissioner may give notice to the applicant of the nature of the changes ~~[which]~~ that would be approved, and the applicant may submit an amended application;
- (4) If the commissioner intends to disapprove an application, the commissioner shall deliver to the applicant a written notice of the intent to disapprove. Within ten days after receipt of the commissioner's notice of intent to disapprove an application, the applicant may request an administrative hearing, to be held in accordance with chapter 91. If no request for a hearing is made, the commissioner's disapproval shall become final. If after the hearing the commissioner finally disapproves the application, the applicant may, within thirty days of the date of the final decision, appeal to the circuit court as provided in chapter 91;
- (5) Notwithstanding any other provision of this part, any complete application ~~[which]~~ that is not approved or denied by the commissioner within a period of sixty days after the application is filed with the commissioner or, if the applicant consents to an extension of the period within which the commissioner may act, within the extended period, shall be deemed to be approved by the commissioner as of the first day after the period of sixty days or the extended period. If the commissioner gives notice of an informational and comment proceeding on the application, the sixty-day period shall be extended to a date as may be fixed by order of the commissioner. For purposes of this section, an application is deemed to be filed with the commissioner at the time when the complete application, including any amendments or supplements, containing all of the information in the form required by the commissioner, is received and accepted by the commissioner; and
- (6) Any applicant submitting information to the commissioner pursuant to this part may request that the information, or any part thereof, be kept confidential. The request shall be made in writing and shall set forth the specific items sought to be kept confidential and the reasons and authority for the confidential treatment. The commissioner may, pursuant to a request or otherwise, determine that good cause exists to keep some or all of the information confidential, and shall keep the information confidential and not subject to public disclosure. In connection with an application for the acqui-

sition of control pursuant to section 412:3-612, the commissioner may release information to the affected financial institution or financial institution holding company with a directive that some or all of the information be kept confidential."

SECTION 19. Section 412:5-203, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The bank shall file an application with the commissioner in a form approved by the commissioner. The application shall be accompanied by a fee ~~[the amount of which shall be prescribed by rule.]~~ assessed pursuant to section 412:2-___. The application shall contain the following information concerning the proposed operating subsidiary:

- (1) The name and date for commencement of operations;
- (2) The specific location;
- (3) The activities and nature of business;
- (4) The ownership, amount, and nature of the investment; and
- (5) Any other information that the commissioner may require."

SECTION 20. Section 412:5-205, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The bank shall file an application for such approval with the commissioner on a form prescribed by the commissioner, together with an application fee ~~[of \$5,000, or such greater amount as the commissioner shall establish, no part of which shall be refundable.]~~ assessed pursuant to section 412:2-___. The application shall contain the following information:

- (1) Appropriate board resolutions authorizing the establishment of a trust company, division, or department;
- (2) Employment history, education, management experience, and other biographical information for all executive officers, trust officers, and managers of the trust company, division, or department;
- (3) Proposed policies concerning common trust funds, overdrafts, disaster recovery plans, dividends, management of assets and liabilities, conflicts of interest, investments, and fee schedules. The commissioner may consider any existing bank policies that will be adapted and ~~[utilized]~~ used for its trust business;
- (4) A business plan and financial projections regarding profitability of the proposed trust business;
- (5) Evidence that the bank has or will have the financial ability, responsibility, and experience to engage in the trust business; and
- (6) Any other information ~~[which]~~ that the commissioner may require."

SECTION 21. Section 412:5-205.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The bank shall file an application for approval with the commissioner in a form prescribed by the commissioner. The application shall be accompanied by a fee ~~[the amount of which shall be prescribed by rule.]~~ assessed pursuant to section 412:2-___. The application shall contain:

- (1) A description of the activities to be conducted;
- (2) The experience and qualifications of the proposed managers;
- (3) The specific location where the activities will be conducted; and
- (4) Any other information that the commissioner may require.

If the bank proposes to engage in the business of insurance through a subsidiary or affiliate, then the application shall also contain information regarding the experience and qualifications of the proposed executive officers and direc-

tors of the subsidiary or affiliate and the ownership, amount, and nature of the bank's investment in and advances to the subsidiary or affiliate. Upon being satisfied that the application is complete, that the conduct of the insurance business will not affect the safety or soundness of the bank or harm the public interest, and that the bank and its subsidiary or affiliate, if applicable, have sufficient experience, qualifications, and financial capability to engage in the activities authorized by this section, the commissioner shall approve the application. The commissioner may impose any terms and conditions ~~[which]~~ that the commissioner considers necessary to protect the bank, the customers of the bank, and the public interest."

SECTION 22. Section 412:5-205.7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The bank shall file an application for approval with the commissioner in a form prescribed by the commissioner~~[-The application shall be]~~ and accompanied by a fee ~~[the amount of which shall be prescribed by rule.]~~ assessed pursuant to section 412:2-. The application shall contain:

- (1) A description of the activities to be conducted;
- (2) The experience and qualifications of the proposed managers;
- (3) The specific location where the activities will be conducted; and
- (4) Any other information that the commissioner may require.

If the bank proposes to engage in securities activities through a subsidiary or affiliate, then the application shall also contain information regarding the experience and qualifications of the proposed executive officers and directors of the subsidiary or affiliate and the ownership, amount, and nature of the bank's investment in and advances to the subsidiary or affiliate. Upon being satisfied that the application is complete, that the conduct of the securities activities will not affect the safety or soundness of the bank or harm the public interest, and that the bank and its subsidiary or affiliate, if applicable, have sufficient experience, qualifications, and financial capability to engage in the activities authorized by this section, the commissioner shall approve the application. The commissioner may impose any terms and conditions ~~[which]~~ that the commissioner considers necessary to protect the bank, the customers of the bank, and the public interest."

SECTION 23. Section 412:5-402, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In order to obtain prior approval of the commissioner, the applicant shall file the application required by and comply with the provisions of article 3. The application shall be accompanied by the application fee assessed pursuant to section 412:2-. The application shall contain the following information:

- (1) The applicant's articles of incorporation and bylaws, or other basic governing documents;
- (2) A certificate from the appropriate regulatory body where its home office is located, indicating that the applicant is in good standing in that jurisdiction; and
- (3) Any other information required by the commissioner."

SECTION 24. Section 412:6-201, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any savings bank desiring to acquire any federal power shall file an application with the commissioner. The application shall indicate the applicable federal statute, rule, regulation, interpretation, or court decision~~[;]~~; the extent of the federal power desired~~[;]~~; the reasons for the application~~[;]~~; and any other

information requested by the commissioner. The commissioner may by rule prescribe the form of application [~~and application filing fees~~].”

SECTION 25. Section 412:9-102, Hawaii Revised Statutes, is repealed.

PART III

SECTION 26. Chapter 412, Hawaii Revised Statutes, is amended by adding a new section to article 2 to be appropriately designated and to read as follows:

“§412:2- Hawaii financial institutions; fees; penalty. (a) A financial institution or financial institution applicant shall pay fees as follows:

- (1) A nonrefundable fee of \$10,000 for an application for preliminary approval by the commissioner for the organization of a Hawaii financial institution pursuant to section 412:3-201, 412:3-202, 412:3-206, 412:3-301, or 412:5-205;
- (2) A nonrefundable fee of \$9,000 for an application for preliminary approval by the commissioner for the organization of a Hawaii financial institution pursuant to section 412:5-402;
- (3) A nonrefundable fee of \$2,500 for a final application for a charter or license to engage in the business of a Hawaii financial institution pursuant to section 412:3-212;
- (4) A nonrefundable fee of \$2,500 for a final application for a charter or license to engage in the business of a savings bank pursuant to section 412:6-101;
- (5) A nonrefundable fee of \$2,500 for a final application for a charter or license to engage in the business of a trust company pursuant to section 412:8-102;
- (6) A nonrefundable fee of \$10,000 for an application for a merger or consolidation or acquisition of control involving a Hawaii financial institution;
- (7) A nonrefundable fee of \$10,000 for an application for the acquisition of control of a Hawaii financial institution;
- (8) A nonrefundable fee of \$2,500 for an application for the conversion of a federal financial institution to a Hawaii financial institution or the conversion of a Hawaii financial institution to another Hawaii financial institution charter;
- (9) A nonrefundable fee of \$5,000 for an application of a bank to conduct a trust business through a subsidiary, division, or department of the bank pursuant to 412:5-205;
- (10) A nonrefundable fee of \$5,000 for an application of a bank to conduct insurance activities pursuant to section 412:5-205.5;
- (11) A nonrefundable fee of \$5,000 for an application of a bank to engage in securities activities pursuant to section 412:5-205.7;
- (12) A nonrefundable fee of \$2,000 for an application for a bank or savings bank to comply with lending limits applicable to federal financial institutions pursuant to section 412:5-302 or section 412:6-303;
- (13) A nonrefundable fee of \$2,000 for an application to exceed certain permitted investment limits pursuant to sections 412:5-305(f) and (h), 412:6-306(f) and (h), 412:7-306(f) and (h), 412:8-301(f), 412:9-409(f) and (i), and 412:10-502(g); and
- (14) A nonrefundable fee of \$2,500 for an application for a charter of a credit union.

- (b) Intra-Pacific bank fees shall be as follows:
- (1) A nonrefundable fee of \$750 for an application for a branch, subsidiary, or subsidiary of a holding company of an intra-Pacific bank pursuant to section 412:5-402; and
- (2) A nonrefundable fee of \$500 for an application to relocate a branch, subsidiary, or subsidiary of a holding company of an intra-Pacific bank established or acquired pursuant to section 412:5-401.
- (c) A nonrefundable fee of \$500 shall be assessed for an application to relocate a branch established pursuant to section 412:12-107.
- (d) A nonrefundable fee of \$100 shall be assessed for each certificate of good standing for any Hawaii financial institution; provided that an additional fee of \$100 shall be assessed for each certificate of good standing that is requested to be provided in two business days from receipt of request.
- (e) All assessments and fees shall be deposited into the compliance resolution fund established pursuant to section 26-9(o).
- (f) For purposes of this section, "total assets" means for an insured depository institution the total assets reported in the financial institution's quarterly reports of condition, or call reports, which are required to be filed pursuant to section 7(a)(3) of the Federal Deposit Insurance Act or in the unaudited financial statements filed pursuant to section 412:3-112.
- (g) A Hawaii financial institution that fails to make a payment required by this section shall be subject to an administrative fine of not more than \$250 for each day it is in violation of this section, which fine, together with the amount due under this section, may be recovered pursuant to section 412:2-611 and shall be deposited into the compliance resolution fund established pursuant to section 26-9(o)."

PART IV

SECTION 27. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 28. This Act shall take effect upon its approval; provided that part II shall take effect on January 1, 2014, and part III shall be repealed on January 1, 2014; provided further that section 10 shall take effect on January 1, 2014.

(Approved June 24, 2013.)

Notes

- 1. Comma should be underscored.
- 2. Edited pursuant to HRS §23G-16.5.

ACT 173

S.B. NO. 909

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.
Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division

(BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 all collective bargaining cost items contained in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (13):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$9,497,359 ¹	\$19,608,222 ¹
Special Funds	1,841,479 ¹	3,895,654 ¹
General Obligation		
Bond Funds	863,921 ¹	1,865,311 ¹
Federal Funds	2,290,808 ¹	4,746,440 ¹
Trust Funds	155,409 ¹	334,864 ¹
Interdepartmental		
Transfers	66,359 ¹	134,578 ¹
Revolving Funds	328,050 ¹	682,914 ¹
Other Funds	129,562 ¹	286,810 ¹

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$2,682,067 ¹	\$5,511,338 ¹
Special Funds	10,235 ¹	23,492 ¹
General Obligation		
Bond Funds	86,898 ¹	174,417 ¹
Federal Funds	45,658 ¹	94,043 ¹
Revolving Funds	8,666 ¹	19,863 ¹

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART II

SECTION 3. There are appropriated or authorized from the sources of funding indicated below to administration (JUD 601) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 all collective bargaining cost items contained in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (13):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$1,097,070	\$2,291,376
Special Funds	23,981	52,939

SECTION 4. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

PART III

SECTION 5. There are appropriated or authorized from the sources of funding indicated below to departmental administration and budget division (BUF 101) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and em-

ployees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within bargaining unit (13):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$3,033,468	\$6,671,683
Special Funds	615,884	1,376,724
General Obligation		
Bond Funds	74,572	173,373
Federal Funds	290,888	630,917
Trust Funds	83,573	190,153
Interdepartmental		
Transfers	271,142	574,215
Revolving Funds	54,184	134,314
Other Funds	23,197	62,577

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$191,651	\$395,756
General Obligation		
Bond Funds	2,661	19,052
Federal Funds	9,264	18,308
Revolving Funds	936	5,770

SECTION 6. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART IV

SECTION 7. There are appropriated or authorized from the sources of funding indicated below to administration (JUD 601) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within bargaining unit (13) assigned to the judiciary:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$211,439	\$573,022
Special Funds	4,861	10,340

SECTION 8. Funds appropriated or authorized by this part shall be allotted by the chief justice for expenditure in the respective fiscal year for the purposes of this part.

PART V

SECTION 9. There are appropriated or authorized from the source of funding indicated below to Hawaii health systems corporation - corporate office (HTH 210) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the collective bargaining cost items contained in the agreement negotiated for state employees in collective bargaining unit (13) assigned to the Hawaii health systems corporation:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Special Funds	\$790,158 ¹	\$1,676,586 ¹

SECTION 10. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

PART VI

SECTION 11. There are appropriated or authorized from the source of funding indicated below to Hawaii health systems corporation - corporate office(HTH 210) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the collective bargaining cost items authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within bargaining unit (13) assigned to the Hawaii health systems corporation:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
Special Funds	\$1,211,155	\$2,600,070

SECTION 12. Funds appropriated or authorized by this part shall be allotted by the director of finance to the Hawaii health systems corporation for expenditure in the respective fiscal year for the purposes of this part.

PART VII

SECTION 13. There are appropriated from the source of funding indicated below to health premium payments (BUF 761) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the Hawaii employer-union health benefits trust fund costs contained in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (13):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$3,677,446 ¹	\$2,374,460 ¹

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$696,507 ¹	\$442,947 ¹

PART VIII

SECTION 14. There are appropriated from the source of funding indicated below to health premium payments (BUF 761) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2013-2015 the Hawaii employer-union health benefits trust fund costs for state officers and employees excluded from collective bargaining who belong to the same compensation plans as those officers and employees within bargaining unit (13):

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$1,309,139	\$851,379

Of the above amounts, the following amounts are for the department of education:

	<u>FY 2013-2014</u>	<u>FY 2014-2015</u>
General Funds	\$93,257	\$61,566

SECTION 15. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART IX

SECTION 16. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.

SECTION 17. Funds appropriated or authorized by this Act that are not expended or encumbered by June 30, 2014, and June 30, 2015, of the respective fiscal years, shall lapse as of those dates.

SECTION 18. This Act shall take effect on July 1, 2013.

(Approved June 25, 2013.)

Note

1. Item vetoed and initialed "NA".

ACT 174

H.B. NO. 144

A Bill for an Act Relating to Professional Employer Organizations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Act 225, Session Laws of Hawaii 2007, codified as chapter 373K, Hawaii Revised Statutes, created a new chapter on professional employment organizations that provided a general excise tax exemption to business entities that the department of taxation determined as qualified professional employer organizations.

The legislature further finds that Act 129, Session Laws of Hawaii 2010, codified as chapter 373L, Hawaii Revised Statutes, established a new professional employer organizations chapter that required registration with the department of labor and industrial relations to ensure compliance with federal and state labor laws. The legislature notes that the two separately established statutes, while intended to operate interdependently for the mutual benefit and common public purposes of the department of labor and industrial relations and the department of taxation, could be implemented more effectively by clarifying any existing incompatible and ambiguous language.

The purpose of this Act is to clarify:

- (1) Professional employer organization responsibilities, including meeting the statutory requirements of chapter 373L, Hawaii Revised Statutes; and
- (2) The nexus between the registration of professional employer organizations and qualification for the state general excise tax exemption.

SECTION 2. Chapter 373L, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

“§373L-A Registration required. No person within the purview of this chapter shall use the terms “professional employer organization”, or “PEO”, or other similar name unless the person is registered and in compliance with this chapter and the rules adopted pursuant to this chapter.

§373L-B Responsibility of professional employer organizations. During the term of the agreement between a professional employer organization and its client company, the professional employer organization shall be deemed the employer for all covered employees for purposes of complying with all laws relating to unemployment insurance, workers’ compensation, temporary disability insurance, and prepaid health care coverage and the professional employer organization shall provide written notification to each covered employee of this responsibility.

§373L-C Payroll cost exemption. At the end of each calendar year, the department shall provide the names, date of registration, and contact information of all professional employer organizations that have successfully complied with the requirements of this chapter to the department of taxation. The exemption provided under section 237-24.75(3) shall only apply to professional employer organizations that fulfill and maintain the registration requirements under this chapter.

§373L-D Fees. (a) No applicant shall be allowed to register pursuant to this chapter unless the appropriate fees have been paid.

(b) Effective July 1, 2013, the director shall collect fees in the following amounts:

- | | |
|--------------------------|---------|
| (1) Registration fee | \$ 500 |
| (2) Biennial renewal fee | \$ 750 |
| (3) Restoration fee | \$1,500 |

until such time as the director amends the fees by rulemaking pursuant to chapter 91.

(c) The fees collected pursuant to this section shall be deposited into the state general fund.”

SECTION 3. Section 237-24.75, Hawaii Revised Statutes, is amended to read as follows:

“§237-24.75 Additional exemptions. In addition to the amounts exempt under section 237-24, this chapter shall not apply to:

- (1) Amounts received as a beverage container deposit collected under chapter 342G, part VIII;
- (2) Amounts received by the operator of the Hawaii convention center for reimbursement of costs or advances made pursuant to a contract with the Hawaii tourism authority under section 201B-7[~~h~~]; and
- [~~h~~](3) Amounts received[~~h~~] by a professional [~~employment~~] employer organization that is registered with the department of labor and industrial relations pursuant to chapter 373L, from a client company equal to amounts that are disbursed by the professional [~~employment~~] employer organization for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick leave, health benefits, and similar employment benefits

with respect to ~~[assigned]~~ covered employees at a client company; provided that this exemption shall not apply to amounts received by a professional [employment] employer organization [upon failure of the professional employment organization to collect, account for, and pay over any income tax withholding for assigned employees or any federal or state taxes for which the professional employment organization is responsible.] after:

- (A) Notification from the department of labor and industrial relations that the professional employer organization has not fulfilled or maintained the registration requirements under this chapter; or
- (B) A determination by the department that the professional employer organization has failed to pay any tax withholding for covered employees or any federal or state taxes for which the professional employer organization is responsible.

As used in this paragraph, ~~["professional employment organization";]~~ "professional employer organization", "client company", and ~~["assigned employee"]~~ "covered employee" shall have the meanings provided in section ~~[373K-1.]~~ 373L-1."

SECTION 4. Section 373L-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read: "Department" means the department of labor and industrial relations."

2. By amending the definitions of "client company", "covered employee", "professional employer agreement", and "professional employer organization" to read:

"Client company" means any person [who] that enters into a professional employer agreement with a professional employer organization[-] and has covered employees.

"Covered employee" means an individual [having a co-employment relationship with a professional employer organization and a client company who meets all of the following criteria:

- (1) The individual has received written notice of co-employment with the professional employer organization; and
- (2) The individual's co-employment relationship is pursuant to a professional employer agreement subject to this chapter. Individuals who are officers, directors, shareholders, partners, and managers of the client company shall be covered employees to the extent that the professional employer organization and the client company have expressly agreed in the professional employer agreement that the individuals shall be covered employees; provided that the individuals meet the criteria of this definition and act as operational managers or perform day-to-day operational services for the client company.]

who performs services for a client company pursuant to a professional employer agreement.

"Professional employer agreement" means a written contract by and between a client company and a professional employer organization that [provides for the following]:

- (1) [The co-employment of covered employees; and] Provides for covered employees to the client company;
- (2) [The allocation of employer rights and obligations between] Describes the duties and responsibilities of the client company and the

professional employer organization with respect to the covered employees[-]; and

- (3) Includes a declaration by the professional employer organization of the professional employer organization's responsibilities under section 373L-B.

"Professional employer organization" means any person that is a party to a professional employer agreement with a client company ~~[regardless of whether the person uses the term or conducts business expressly as a "professional employer organization", "PEO", "staff leasing company", "registered staff leasing company", "employee leasing company", "administrative employer", or any other similar name.]~~ and whose covered employees perform services on a long-term, rather than temporary or project-specific basis. The term does not include temporary help services, staff leasing, or other similar arrangements."

3. By deleting the definition of "co-employment".

~~[""Co-employment" means a relationship that is intended to be an ongoing relationship rather than a temporary or project specific one, wherein the rights, duties, and obligations of an employer that arise out of an employment relationship have been allocated between the client company and the professional employer organization pursuant to a professional employer agreement and this chapter."]~~

SECTION 5. Section 373L-2, Hawaii Revised Statutes, is amended to read as follows:

["§373L-2] Registration required. (a) Every professional employer organization shall register with the director by providing all of the information required by this section and by rules adopted by the director pursuant to chapter 91 prior to entering into any professional employer agreement with any client company in this State. Registration shall not be approved unless all of the applicable provisions of this chapter have been met to the satisfaction of the department.

- (b) Registration information required by this section shall include:
- (1) The name or names under which the professional employer organization conducts or will conduct business;
 - (2) The address of the principal place of business of the professional employer organization and the address of each office that the professional employer organization maintains in this State;
 - (3) The professional employer organization's general excise tax number;
 - (4) A copy of the certificate of authority to transact business in this State issued by the director of commerce and consumer affairs pursuant to title 23 or title 23A, if applicable;
 - (5) A list, organized by jurisdiction, of each name under which the professional employer organization has operated in the preceding five years, including any alternative names; names of predecessors; and, if known, names of successor business entities;
 - (6) A statement of ownership, which shall include the name of each person who, individually or acting in concert with any other person or persons, owns or controls, directly or indirectly, twenty-five per cent or more of the equity interests of the professional employer organization;
 - (7) A statement of management, which shall include the name of any person who serves as president or chief executive officer or who otherwise has the authority to act as a senior executive officer of the professional employer organization;

- (8) Proof of valid workers' compensation coverage in compliance with all laws of this State;
- (9) Proof of compliance with the Hawaii temporary disability insurance law;
- (10) Proof of compliance with the Hawaii prepaid health care act [~~as regards all employees of the professional employer organization~~];
- (11) Proof of compliance with the Hawaii employment security law, including payment of any applicable employer liability pursuant to chapter 383; ~~and~~
- (12) ~~[A financial statement prepared in accordance with generally accepted accounting principles, audited by an independent certified public accountant licensed to practice in the State, and without qualification as to the going concern status of the professional employer organization.]~~ The name, address, and phone number of the financial institution utilized by the professional employer organization for payroll purposes that operates and maintains branches in the State;
- (13) The name of each client company that is party to a professional employer agreement with a professional employer organization which shall be provided to the department on a form approved by the department within twenty-one business days of the initiation of the agreement and within twenty-one business days of the termination of the agreement; and
- (14) A copy of the Internal Revenue Service Form W-3, Transmittal of Wage and Tax Statements, that was most recently filed with the federal government, and which shall be used for obtaining a bond or irrevocable letter of credit pursuant to section 373L-3.

(c) Registration under this section shall expire on ~~[December 31]~~ June 30 of each ~~[odd-numbered]~~ even-numbered year. Before ~~[December 31]~~ June 30 of each ~~[odd-numbered]~~ even-numbered year, the director or the director's authorized delegate shall mail a renewal application for registration to the address on record of the registrant. In connection with renewal of registration, a professional employer organization shall provide all of the information required by subsection (b). Failure to renew a registration shall result in termination of that registration. A professional employer organization whose registration has been terminated pursuant to this section shall be required to pay the restoration fee.

(d) Notwithstanding that a registration under this section has not expired, a professional employer organization shall submit annually, no later than June 30 of each year, to the department a copy of the Internal Revenue Service Form W-3, Transmittal of Wage and Tax Statements, that was most recently filed with the federal government. If the amount of the total payroll has changed to an amount that requires a different bond or irrevocable letter of credit amount than posted with the department, the professional employer organization shall obtain a new bond or irrevocable letter of credit to satisfy the requirements of section 373L-3.

~~[(d) The director shall establish fees and requirements for registration, maintenance of registration, renewal, and restoration of registration for professional employer organizations by rule pursuant to chapter 91.]~~

SECTION 6. Section 373L-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No professional employer organization shall enter into a professional employment agreement with a client company in the State unless the professional employer organization posts a surety bond ~~[in the amount of \$250,000,~~

which is a performance or financial guaranty type bond naming the], or an irrevocable letter of credit equivalent to the required bond amount, that is based on the previous year's total payroll of the professional employer organization. The total payroll of the professional employer organization shall be the amount reported on the Internal Revenue Service Form W-3, Transmittal of Wage and Tax Statements, that was most recently filed with the federal government in the year in which the bond or irrevocable letter of credit is to become effective. The bond or its irrevocable letter of credit equivalent required under this section shall be on a sliding scale as follows:

- (1) For professional employer organizations with a total payroll up to and including \$25,000,000, a bond or its irrevocable letter of credit equivalent of \$25,000;
- (2) For professional employer organizations with a total payroll of \$25,000,001 to \$150,000,000, a bond or its irrevocable letter of credit equivalent of \$75,000; and
- (3) For professional employer organizations with a total payroll of \$150,000,001 and higher, a bond or its irrevocable letter of credit equivalent of \$250,000.

If the professional employer organization posts a bond, the director shall be named as the obligee and [which] the bond may be canceled only if the professional employer organization gives sixty days prior written notice to the surety and the director or if the surety gives thirty days prior written notice to the director of cancellation of the bond. If the professional employer organization furnishes an irrevocable letter of credit approved by the director, the director shall be named as the beneficiary, and the irrevocable letter of credit shall be issued by a bank, savings bank, or other depository financial institution insured by a federal depository insurance agency and authorized to do business in the State. The requirements of this section shall be satisfied by a single bond[-] or its irrevocable letter of credit equivalent. If a professional employer organization has more than one branch location, the bond or its irrevocable letter of credit equivalent shall cover all locations."

SECTION 7. Chapter 373K, Hawaii Revised Statutes, is repealed.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$13,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 to be expended by the department of labor and industrial relations to carry out the purposes of this Act.

SECTION 9. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 10. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 12. This Act shall take effect on July 1, 2013.

(Approved June 25, 2013.)

Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.

ACT 175

S.B. NO. 680

A Bill for an Act Relating to Homeland Security.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that there is an ever-increasing possibility of terrorist or other man-made threats to: infrastructure critical to national security; local, state and federal governmental entities; and the stability and security of the people of Hawaii. The increasing sophistication of terrorist groups, transnational criminal organizations, and others who would threaten the peace and security of Hawaii greatly complicate the State's ability to protect its residents and prevent attacks.

The legislature also finds that state departments and agencies are performing many missions and tasks to combat terrorism and support homeland security requirements without underlying statutory authority or enabling legislation.

The purpose of this Act is to establish an office of homeland security to provide a comprehensive program to protect our people, infrastructure, and government from terrorism and threats of attack.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
HOMELAND SECURITY**

§ -1 Policy and purpose. The legislature finds that because of the existing and increasing possibility of the occurrence of terrorist attacks of unprecedented size and destructiveness, in order to ensure that the State will be adequately prepared to deal with such attacks; preserve the lives and property of the people of the State; and protect the public peace, health, and safety, it is necessary to:

- (1) Provide for homeland security by the State and to authorize the creation of organizations for homeland security in the counties of the State; and
- (2) Provide programs, in coordination with county agencies, other state and federal agencies, and the private sector, to educate and train publicly and privately employed workers and the general public to be prepared for potential attacks.

The purpose of this chapter is to enact a homeland security law to provide for all homeland security functions of this State and its counties.

§ -2 Definitions. As used in this chapter:

“Attack” means any attack or series of attacks by anyone causing, or which may cause, damage or injury to persons or property in the United States in any manner by the use of chemical, biological, radiological, nuclear, explosives, firearms, cyber, or other weapons or processes; and any form of hostile action.

“County” means any of the political subdivisions of the State, including the counties of Hawaii, Maui, and Kauai and the city and county of Honolulu, but does not include the county of Kalawao.

“Director of homeland security” or “director” means the adjutant general.

“Facilities”, except as otherwise provided in this chapter, includes buildings and other structures, shelters, land, and appurtenant materials.

“Homeland security” means a concerted effort to:

- (1) Prevent terrorist attacks within the United States;

- (2) Reduce the State's vulnerability to attacks and terrorist activities; and
- (3) Minimize the damage and recover from attacks that occur.

"Necessary" means any methods, measures, or other actions or determinations as are needed in the opinion of the governor, or the governor's authorized representative, or a mayor, or a mayor's authorized representative.

"States" includes the several states of the United States, the District of Columbia, and the possessions and territories of the United States.

§ -3 State office of homeland security. (a) There shall be established within the department of defense an office of homeland security. The director of homeland security shall employ appropriate personnel and make expenditures as may be necessary to carry out this chapter. The director shall appoint an administrator of homeland security who shall be exempt from chapter 76, subject to removal by the director, and receive compensation as the director may determine.

(b) The director shall be responsible for formulating and carrying out programs for homeland security. The director shall:

- (1) Ensure coordination and cooperation among all organizations for homeland security; public agencies, including county, state, and federal agencies; and private organizations; and
- (2) Cooperate with county, state, and federal homeland security and law enforcement agencies.

§ -4 Homeland security responsibilities. The director may:

- (1) Prepare comprehensive plans and programs for homeland security and homeland defense; provided that these plans and programs shall be integrated and coordinated with the plans of the counties and the federal government to the fullest possible extent;
- (2) Make studies and surveys of the vulnerabilities of critical infrastructure and key resources in this State as may be necessary, and participate in planning for their protection;
- (3) Develop and maintain a list of critical infrastructure, coordinating the list with the counties of the State, other state agencies, federal agencies (including the Departments of Defense and Homeland Security), the private sector, and other agencies and organizations as necessary;
- (4) Develop and maintain a capability to process security-clearance applications for civilian workers of the state and county governments;
- (5) Foster coordination on security matters with all nations of the Pacific region to the extent permitted under federal law, including but not limited to coordinating planning efforts, as appropriate; sponsoring discussions and seminars; and hosting periodic international conferences; and
- (6) Solicit and manage funding, including but not limited to grants from the federal government, funds from other divisions in the department of defense and other state agencies, and funds to provide personnel support to the office of homeland security.

§ -5 County organizations for homeland security. Counties are authorized, but not required, to establish organizations for homeland security. If a county does not establish a separate organization for homeland security, the functions listed in section -4 shall be incorporated into the responsibilities of the county civil defense agency."

SECTION 3. Section 26-21, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department of defense shall be headed by a single executive to be known as the adjutant general. The adjutant general shall also be the director of civil defense[-] and the director of homeland security.

There shall be a full-time vice director of civil defense who shall be appointed and may be removed by the director.

The department shall be responsible for the defense of the State and its people from mass violence, originating from either human or natural causes.

The devolution of command of the military forces in the absence of the adjutant general shall be within the military establishment. The devolution of command of the civil defense agency in the absence of the director of civil defense shall be within the civil defense agency.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2013.

(Approved June 25, 2013.)

ACT 176

S.B. NO. 1077

A Bill for an Act Relating to the Owner-Builder Exemption.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. In Hawaii, a contractor’s license is required to obtain a building permit from the various counties, unless the applicant is an owner-builder. The owner-builder exemption allows owners to perform their own home improvements and construction. As an owner-builder, an owner can hire employees and contract directly with subcontractors to construct improvements on the owner’s property. However, an owner-builder also takes on all of the responsibilities associated with acting as a general contractor, including compliance with building codes, occupational safety and health regulations, wage standards, and taxes, among other things.

Oftentimes, owners are advised by unlicensed contractors to obtain an owner-builder permit so that the owner can hire or contract with an unlicensed person. Too often, owners are not fully aware of the risks and responsibilities they have assumed until it is too late.

The purpose of this Act is to limit the application of the owner-builder exemption to residential or farm property only, to improve the ability of the regulated industries complaints office to investigate possible violations of the owner-builder law, and to offer additional disclosures for owner-builders when they enter into agreements with licensed subcontractors.

SECTION 2. Section 444-2.5, Hawaii Revised Statutes, is amended to read as follows:

“§444-2.5 **Owner-builder exemption.** (a) This chapter shall not apply to owners or lessees of property who build or improve residential[;] ~~or farm[; industrial, or commercial]~~ buildings or structures on property for their own use, or for

use by their grandparents, parents, siblings, or children, and who do not offer the buildings or structures for sale or lease; provided that:

- (1) To qualify for an exemption under this section, the owner or lessee shall register for the exemption as provided in section 444-9.1; ~~[and]~~
- (2) The exemption under this section shall not apply to electrical or plumbing work that must be performed only by persons or entities licensed in accordance with this chapter, unless the owner or lessee of the property is licensed for such work under chapter 448E[-];
- (3) An owner or lessee exempted under this section shall:
 - (A) Supervise the construction activity on the exempt buildings or structures;
 - (B) Hire subcontractors appropriately licensed under this chapter to perform any part of the construction activity for which a license is required;
 - (C) Ensure that any electrical or plumbing work is performed by persons and entities appropriately licensed under this chapter or chapter 448E;
 - (D) Deduct Federal Insurance Contributions Act and withholding taxes and provide workers' compensation insurance for persons working on the construction activity who are not licensed under this chapter or chapter 448E and who shall be considered employees of the owner or lessee; and
 - (E) Ensure that the construction activity complies with all applicable laws, ordinances, building codes, and zoning regulations;
- (4) Until completion of the construction activity, an owner or lessee exempted under this section shall make available the following records for immediate inspection upon request by the department:
 - (A) A copy of the building permit application;
 - (B) A copy of the issued building permit;
 - (C) Copies of all contracts with the names of all persons who performed or are performing work on the exempt buildings and structures; and
 - (D) Proof of payment to all persons contracted to work on the exempt buildings and structures; and
- (5) Upon completion of the construction activity, an owner or lessee exempted under this section shall keep and maintain the records identified in paragraph (4) for a period of three years from completion of the construction activity and shall make the records available for inspection within seven business days upon request by the department.
 - (b) Proof of the sale or lease, or offering for sale or lease, of the structure within one year after completion shall be prima facie evidence that the construction or improvement of the structure was undertaken for the purpose of sale or lease; provided that this subsection shall not apply to:
 - (1) Residential properties sold or leased to employees of the owner or lessee;
 - (2) Construction or improvements performed pursuant to an approved building permit where the estimated valuation of work to be performed, as reflected in the building permit, is less than \$10,000; or
 - (3) Any sale or lease caused by an eligible unforeseen hardship as determined by the board pursuant to subsection (c).
 - (c) The board shall determine the eligibility of an unforeseen hardship claimed by an owner under subsection (b); provided that an alleged unforeseen hardship shall not be deemed eligible if the board determines that the construc-

tion or improvement of the structure was undertaken for the purpose of sale or lease. An exemption for an unforeseen hardship shall not be denied solely because of lack of completion, as the term is defined in subsection (e). An owner seeking a determination of eligibility of an unforeseen hardship shall:

- (1) Be in compliance with the requirements set forth in the disclosure statement required to be provided under section 444-9.1; and
- (2) Submit a written application to the board at any time prior to selling, leasing, or offering to sell or lease the property describing the nature of the applicant's unforeseen hardship. The application shall include supporting documentation detailing the hardship, such as:
 - (A) Evidence of receipt of unemployment compensation;
 - (B) Tax returns;
 - (C) Medical records;
 - (D) Bank statements;
 - (E) Divorce decrees ordering sale of property;
 - (F) Mortgage default letters; or
 - (G) Bankruptcy filings.

The board shall communicate its determination to the owner in writing within ninety days of receiving a completed application under this subsection.

(d) Any owner or lessee of property found to have violated this section shall not be permitted to engage in any activities pursuant to this section or to register under section 444-9.1 for a period of three years. There is a rebuttable presumption that an owner or lessee has violated this section[.] when the owner or lessee obtains an exemption from the licensing requirements of section 444-9 more than once in two years.

(e) For the purposes of this section, "completion" means the date of final inspection approval by the county.

(f) An owner or lessee exempted under this section shall not be eligible to recover from the contractors recovery fund.

(g) This section shall not apply to agricultural buildings, structures, or appurtenances thereto that do not require a building permit or are exempt from the building code."

SECTION 3. Section 444-23, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

~~"(e) Any person who violates section 444-2.5[.] or fails to comply with the requirements set forth in the disclosure statement required to be provided under section 444-9.1[.] shall be fined:~~

- (1) Up to \$5,000 or [forty] fifty per cent of the [appraised] value of the [building] construction or improvement as [determined by the county tax appraiser,] indicated on the building permit application, whichever is greater, and as determined based on a review of the circumstances of each case, for the first offense; and
- (2) \$10,000 or [fifty] sixty per cent of the [appraised] value of the [building] construction or improvement as [determined by the county tax appraiser,] indicated on the building permit application, whichever is greater, for any subsequent offenses."

SECTION 4. Section 444-25.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Prior to entering into a contract with a homeowner, or at the time a homeowner signs a contract, involving home construction or improvements ~~and prior to the application for a building permit~~, licensed contractors shall:

- (1) Explain verbally in detail to the homeowner all lien rights of all parties performing under the contract, including the homeowner, the contractor, any subcontractor, or any materialman supplying commodities or labor on the project;
- (2) Explain verbally in detail the homeowner's option to demand bonding on the project, how the bond would protect the homeowner, and the approximate expense of the bond; and
- (3) Disclose all information pertaining to the contract and its performance and any other relevant information that the board may require by rule."

2. By amending subsection (c) to read:

"(c) For the purpose of this section, "homeowner" means the owner or lessee of residential real property, including owners or lessees of condominium or cooperative units[-], notwithstanding owner-builder status."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2013.

(Approved June 25, 2013.)

ACT 177

H.B. NO. 668

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that one of the top recommendations of the "Medical Cannabis Working Group Report to the Hawaii State Legislature" in 2010 was the transfer of the administration of Hawaii's medical use of marijuana program from the department of public safety to the department of health. The status of the medical use of marijuana program as a public health program is more in line with the mission and expertise of the department of health. The department of health is experienced in working with patients and health programs, including important tasks such as public outreach and education, and safeguarding patient privacy.

The purpose of this Act is to transfer the State's medical use of marijuana program from the department of public safety to the department of health.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§321- Medical marijuana registry special fund; established. (a) There is established within the state treasury the medical marijuana registry special fund. The fund shall be expended at the discretion of the director of health:

- (1) To offset the cost of the processing and issuance of patient registry identification certificates and primary caregiver registration certificates;
- (2) To fund positions authorized by the legislature;

- (3) To establish and manage a secure and confidential database; and
- (4) For any other expenditure necessary, as authorized by the legislature, to implement a medical marijuana registry program.
- (b) The fund shall consist of all moneys derived from fees collected pursuant to subsection (c). All fees collected pursuant to subsection (c) shall be deposited into the medical marijuana registry special fund.
- (c) The department, upon completion of the transfer of the medical use of marijuana program, shall charge a medical marijuana registration fee of no more than \$35."

SECTION 3. Section 329-59, Hawaii Revised Statutes, is amended to read as follows:

"§329-59 Controlled substance registration revolving fund; established. (a)

There is established within the state treasury the controlled substance registration revolving fund. The fund shall be expended at the discretion of the director of public safety for the purpose of:

- (1) Offsetting the cost of the electronic prescription accountability system, investigation of violations of this chapter, the registration and control of the manufacture, distribution, prescription, and dispensation of controlled substances and regulated chemicals listed under section 329-61, within the State [~~and the processing and issuance of a patient registry identification certificate designated under part IX~~];
- (2) Funding positions authorized by the legislature by law; and
- (3) Funding the narcotics enforcement division's forensic drug laboratory facility.
- (b) The fund shall consist of all moneys derived from fees collected pursuant to sections 329-31[;] and 329-67[; ~~and 329-123(b)~~] and legislative appropriations. All fees collected pursuant to sections 329-31[;] and 329-67[; ~~and 329-123(b)~~] shall be deposited in the controlled substance registration revolving fund."

SECTION 4. (a) No later than January 1, 2015, all rights, powers, functions, and duties of the department of public safety relating to the medical use of marijuana under part IX of chapter 329, Hawaii Revised Statutes, shall be transferred to the department of health.

(b) All employees who occupy civil service positions and whose functions are transferred to the department of health by this Act shall retain their civil service status, whether permanent or temporary. Employees shall be transferred without loss of salary, seniority (except as prescribed by applicable collective bargaining agreement), retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act; provided that the employees possess the minimum qualifications and public employment requirements for the class or position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

Any employee who, prior to this Act, is exempt from civil service and is transferred as a consequence of this Act, may continue to retain the employee's exempt status, but shall not be appointed to a civil service position as a consequence of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, vacation or sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act; provided that the employees possess legal and public employment require-

ments for the position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable employment and compensation laws. The director of health may prescribe the duties and qualifications of such employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.

SECTION 5. The department of public safety shall facilitate the transfer of functions pursuant to this Act by collaborating with, cooperating with, and assisting the department of health with assuming jurisdiction of and responsibilities for the medical use of marijuana program.

In order to facilitate the transfer of functions pursuant to this Act, until all relevant records are transferred to the department of health, the duties of the department of public safety shall include but not be limited to maintaining a confirmation service of the registration and certification of physicians, qualifying patients, and primary caregivers, pursuant to section 329-123, Hawaii Revised Statutes, which service shall operate twenty-four hours per day, seven days per week, and shall be accessible to the department of health.

SECTION 6. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, or acquired exclusively for the medical use of marijuana program, or held by the department of public safety relating to the functions transferred to the department of health shall be transferred with the functions to which they relate.

SECTION 7. All surplus moneys collected exclusively for the medical use of marijuana program by the department of public safety pursuant to section 329-123(b), Hawaii Revised Statutes, on or before June 30, 2013, and placed into the controlled substance registration revolving fund established by section 329-59, Hawaii Revised Statutes, after all medical use of marijuana program expenses have been paid by the department of public safety, shall be transferred, into the medical marijuana registry special fund by September 1, 2013. On January 1, 2015, any surplus moneys collected exclusively for the medical use of marijuana program by the department of public safety pursuant to section 329-123(b), Hawaii Revised Statutes, between September 1, 2013, and December 31, 2014, shall be transferred into the medical marijuana registry special fund.

SECTION 8. All rules, policies, procedures, guidelines, and other material adopted or developed by the department of public safety that are reenacted or made applicable to the department of health by this Act shall remain in full force and effect until amended or repealed by the department of health pursuant to chapter 91, Hawaii Revised Statutes. In the interim, every reference to the department of public safety or director of public safety in those rules, policies, procedures, guidelines, and other material is amended to refer to the department of health or director of health, as appropriate.

SECTION 9. All designated forms for written certifications issued by the department of public safety shall be valid under the department of health until the department of health issues new designated forms.

SECTION 10. The department of public safety and the department of health shall develop and implement a plan for transferring the medical use of marijuana program from the department of public safety to the department of health with implementation of the transfer completed by January 1, 2015, pursu-

ant to this Act. The plan shall include recommendations regarding the staffing and operational expenses of the program once the transfer to the department of health is completed and a timeline for the transfer that includes, but is not limited to, a plan for the promulgation of rules by the department of health, for the establishment and management of a secure and confidential database, and for a confirmation service of the registration and certification of qualifying patients and primary caregivers.

SECTION 11. The department of public safety and the department of health shall submit a joint report on the transfer of the medical use of marijuana program, including the plan and timeline for the transfer, and the progress made, to the legislature no later than twenty days prior to the convening of the regular sessions of 2014 and 2015.

SECTION 12. There is appropriated out of the medical marijuana registry special fund of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 to effectuate the transfer of the medical use of marijuana program from the department of public safety to the department of health.

The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 14. This Act shall take effect upon its approval; provided that section 3 of this Act shall take effect on January 1, 2015.

(Approved June 25, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 178

S.B. NO. 642

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the State's medical marijuana program was enacted into law in 2000 as a public health program conceived out of compassion for the health and welfare of the seriously ill. After twelve years, the experience of the program indicates that improvements to the law will help to fulfill its original intent by clarifying provisions and removing serious obstacles to patient access and physician participation.

The purpose of this Act is to amend the medical use of marijuana law to address the concerns of Hawaii's seriously ill patients.

SECTION 2. Section 329-121, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "adequate supply" to read:

““Adequate supply” means an amount of marijuana jointly possessed between the qualifying patient and the primary caregiver that is not more than is reasonably necessary to assure the uninterrupted availability of marijuana for the purpose of alleviating the symptoms or effects of a qualifying patient’s debilitating medical condition; provided that an “adequate supply” shall not exceed ~~[three mature] seven~~ marijuana plants~~[- four immature marijuana plants, and one ounce]~~, whether immature or mature, and four ounces of usable marijuana [per each mature plant.] at any given time.”

2. By amending the definition of “medical use” to read:

““Medical use” means the acquisition, possession, cultivation, use, distribution, or transportation of marijuana or paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a qualifying patient’s debilitating medical condition. For the purposes of “medical use”, the term distribution is limited to the transfer of marijuana and paraphernalia ~~[from the primary caregiver to the qualifying patient].~~”

3. By amending the definition of “primary caregiver” to read:

““Primary caregiver” means a person~~[- eighteen years of age or older,~~ other than the qualifying patient and the qualifying patient’s physician, ~~[who is eighteen years of age or older]~~ who has agreed to undertake responsibility for managing the well-being of the qualifying patient with respect to the medical use of marijuana. In the case of a minor or an adult lacking legal capacity, the primary caregiver shall be a parent, guardian, or person having legal custody.”

4. By amending the definition of “usable marijuana” to read:

““Usable marijuana” means the dried leaves and flowers of the plant Cannabis family Moraceae, and any mixture ~~[[]or[]]~~ preparation thereof, that are appropriate for the medical use of marijuana. “Usable marijuana” does not include the seeds, stalks, and roots of the plant.”

5. By amending the definition of “written certification” to read:

““Written certification” means the qualifying patient’s medical records or a statement signed by a qualifying patient’s physician, stating that in the physician’s professional opinion, the qualifying patient has a debilitating medical condition and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. The department of ~~[public safety]~~ health may require, through its rulemaking authority, that all written certifications comply with a designated form. “Written certifications” are valid for only one year from the time of signing.”

SECTION 3. Section 329-122, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Notwithstanding any law to the contrary, the medical use of marijuana by a qualifying patient shall be permitted only if:

- (1) The qualifying patient has been diagnosed by a physician as having a debilitating medical condition;
- (2) The qualifying patient’s physician has certified in writing that, in the physician’s professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for the particular qualifying patient; and
- (3) The amount of marijuana possessed by the qualifying patient does not exceed an adequate supply.”

SECTION 4. Section 329-123, Hawaii Revised Statutes, is amended to read as follows:

“§329-123 Registration requirements. (a) Physicians who issue written certifications shall ~~[register the names, addresses, patient identification numbers,]~~ provide, in each written certification, the name, address, patient identification number, and other identifying information of the ~~[patients issued written certifications with the department of public safety.]~~ qualifying patient. The department of health shall require, in rules adopted pursuant to chapter 91, that all written certifications comply with a designated form completed by or on behalf of a qualifying patient. The form shall require information from the applicant, primary caregiver, and primary care physician as specifically required or permitted by this chapter. The form shall require the address of the location where the marijuana is grown and shall appear on the registry card issued by the department of health. The certifying physician shall be required to be the qualifying patient’s primary care physician. All current active medical marijuana permits shall be honored through their expiration date.

(b) Qualifying patients shall register with the department of ~~[public safety.]~~ health. The registration shall be effective until the expiration of the certificate issued by the department of health and signed by the physician. Every qualifying patient shall provide sufficient identifying information to establish the personal identities of the qualifying patient and the primary caregiver. Qualifying patients shall report changes in information within ~~[five]~~ ten working days. Every qualifying patient shall have only one primary caregiver at any given time. The department of health shall ~~[then]~~ issue to the qualifying patient a registration certificate, and ~~[may]~~ shall charge ~~[a reasonable fee not to exceed]~~ \$35[-] per year.

(c) Primary caregivers shall register with the department of ~~[public safety.]~~ health. Every primary caregiver shall be responsible for the care of only one qualifying patient at any given time.

(d) Upon ~~[an]~~ inquiry by a law enforcement agency, which inquiry may be made twenty-four hours a day, seven days a week, the department of ~~[public safety]~~ health shall immediately verify whether the ~~[particular qualifying patient]~~ subject of the inquiry has registered with the department of health and may provide reasonable access to the registry information for official law enforcement purposes.”

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on January 2, 2015.

(Approved June 25, 2013.)

ACT 179

S.B. NO. 682

A Bill for an Act Relating to Fire Protection.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 132-9, Hawaii Revised Statutes, is amended to read as follows:

~~“§132-9 Submission of building plans for approval. [Before work commences upon the construction of any building of the types hereinafter enumerated, or upon an alteration or addition to any building, the plans and specifications for the work shall be submitted to the county fire chief. Neither the person causing the construction, alteration, or addition to be made, nor the person’s architect or agent, shall authorize, order, or permit the work thereon to start and no contractor, builder, or other person may start the work, before approval of the plans and specifications by the county fire chief.~~

~~The foregoing provisions shall be applicable to buildings, the whole or any part of which are being, or intended to be, used as:~~

- ~~(1) Hospitals, sanitariums, asylums, children’s nurseries, and other such institutions;~~
- ~~(2) Hotels, apartment houses, rooming houses, and tenement houses; provided that when any such building to be constructed or upon which alterations or additions are to be made, is only one story high, with living accommodations permanently designated and intended for less than twenty five persons, this section shall not apply;~~
- ~~(3) Schools, churches, auditoriums, halls, gymnasiums, dance halls, nightclubs, factories, office buildings, stores, and all other such buildings where persons work, congregate, or assemble; provided that when any such building to be constructed, or upon which alterations or additions are to be made, is only one story high, and is permanently designated and intended for a total accommodation at any one time of less than one hundred persons, this section shall not apply.]~~

The county fire chief shall be authorized by each respective county to require plans or documentation, or both, to show compliance with the county’s adopted fire code for the following:

- (1) Construction, alteration, rehabilitation, or addition to any building, structure, or facility;
- (2) Changes in the use of a building or structure, or a change in occupancy; and
- (3) Installation or alteration of any procedures, equipment, property, or structure for any life safety or fire protection systems.

No work shall commence without the necessary permits issued by the jurisdiction having authority.

This section shall be applicable to the State and the counties, and other municipal subdivisions, and their officers, as well as to private persons.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved June 25, 2013.)

ACT 180

S.B. NO. 46

A Bill for an Act Relating to Education.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. In October 2010, the United States Department of Education issued new regulations for programs authorized under Title IV of the Higher Education Act of 1965, as amended, to hold programs accountable for preparing students for gainful employment, protect students from misleading recruiting practices, ensure that only eligible students receive financial aid, and strengthen federal student aid programs at for-profit, non-profit, and public institutions. The regulations also include requirements for state authorization of institutions that offer educational programs beyond secondary education for purposes of federal program eligibility. Federal expectations have major implications for the State and post-secondary institutions, as there is now a clear federal requirement that post-secondary institutions receive authorization from the State to operate.

The state post-secondary education commission, established under section 304A-3151, Hawaii Revised Statutes, qualifies the State to receive funds made available under the Higher Education Act of 1965, as amended, and may serve as the state agency for the receipt of federal funds when necessary. However, the commission does not authorize institutions to operate educational programs beyond secondary education, as may be required under new federal regulations. Further, the commission is established under the University of Hawaii for administrative purposes. The legislature finds that establishing a post-secondary education authorization program under the department of commerce and consumer affairs will result in a system of authorization that is more appropriate to serve the diverse institutions that operate educational programs beyond secondary education in the State. In addition, the department of commerce and consumer affairs is the most appropriate entity to deal with consumer complaints by students at post-secondary institutions, which is a crux of the federal requirements.

The State was unable to satisfy all of the requirements of the Higher Education Act of 1965, as amended, relating to state authorization by the July 1, 2011, deadline. However, the United States Department of Education afforded states and institutions the opportunity to receive an extension to July 1, 2013, for certain regulations. In the meantime, it is the intent of the legislature to proactively seek solutions by determining what actions and changes are required for the State to come into compliance with the new regulations.

It is imperative that Hawaii not jeopardize the receipt of federal funds under Title IV of the Higher Education Act of 1965, as amended. According to the auditor's 2012 Study of the Higher Education Act, "[r]oughly 63,000 students in Hawaii received more than \$283,000,000 in Title IV funds in F[iscal] Y[ear] 2011 – about \$4,500 per student."

Accordingly, the purpose of this Act is to bring Hawaii into compliance with Title IV of the Higher Education Act of 1965, as amended, by establishing a post-secondary education authorization program within the department of commerce and consumer affairs and creating the framework for authorizing private post-secondary educational institutions in the State.

PART II

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER POST-SECONDARY EDUCATION AUTHORIZATION

§ -1 Post-secondary education authorization program; establishment. There is established a post-secondary education authorization program within the department of commerce and consumer affairs, to be administered by the director of commerce and consumer affairs.

§ -2 Definitions. Whenever used in this chapter, unless the context otherwise requires:

"Accredited" means holding an institutional accreditation by name to offer post-secondary education as a United States-based institution from a regional or national accrediting agency recognized by the United States Department of Education.

"Alternative enrollment" means the opportunity for a student enrolled in a private college or university that ceases operation to meet the student's educational objectives through education provided by another authorized private college or university, the University of Hawaii system, an area vocational school, or any other educational arrangement acceptable to the director.

"Authorization" means the authorization granted to a private college or university, seminary, or religious training institution as provided in this chapter and any applicable rules and policies. Authorization is not an endorsement by the department.

"Degree" means a statement, diploma, certificate, or other writing in any language that indicates or represents, or is intended to indicate or represent, that the person named thereon is learned in or has satisfactorily completed a prescribed course of study in a particular field of endeavor or that the person named thereon has demonstrated proficiency in a field of endeavor as a result of formal preparation or training.

"Department" means the department of commerce and consumer affairs.

"Director" means the director of commerce and consumer affairs.

"Enrollment agreement" means the contract prepared by a private college or university, seminary, or religious training institution that a student signs to indicate agreement to the terms of admission, delivery of instruction, and monetary terms as outlined in the private college, university, seminary, or religious training institution's student handbook or catalog.

"Governing board" means the elected or appointed group of persons that oversees and controls a private college or university, seminary, or religious training institution.

"Home state" means the state in which the institution holds its principal accreditation.

"Honorary degree" means a statement, diploma, certificate, or other writing in any language that indicates or represents, or that is intended to indicate or represent, that the person named thereon is learned in a field of public service or has performed outstanding public service or that the person named thereon has demonstrated proficiency in a field of endeavor without having completed formal courses of instruction or study or formal preparation or training.

"Out-of-state public institution" means an institution of higher education that is established by a government entity in a state other than Hawaii.

“Owner” means:

- (1) An individual, if a private for-profit college or university is structured as a sole proprietorship;
- (2) Partners, if a private for-profit college or university is structured as a partnership;
- (3) Members in a limited liability company, if a private for-profit college or university is structured as a limited liability company; and
- (4) Shareholders in a corporation that hold a controlling interest, if a private for-profit college or university is structured as a corporation.

“Physical presence” means:

- (1) Having a physical location in the State, where students receive synchronous or asynchronous instruction; or
- (2) Establishing an administrative office in the State in order to:
 - (A) Provide information to prospective students, enrolling students, or the general public about the institution;
 - (B) Provide services to enrolled students;
 - (C) Provide office space for instructional or non-instructional staff; and
 - (D) Maintain an institutional mailing address, street address, or telephone number in the State.

“Private college or university” means a non-public post-secondary education institution having a physical presence in the State that offers associate, baccalaureate, post-baccalaureate, master’s, or doctoral degrees or diplomas. For purposes of the requirements of this chapter, an out-of-state public institution shall be considered as a private college or university.

“Seminary” or “religious training institution” means a bona fide religious post-secondary educational institution that has a physical presence in the State, that is exempt from property taxation under the laws of the State, and that offers associate, baccalaureate, post-baccalaureate, master’s, or doctoral degrees or diplomas.

“Unaccredited post-secondary educational institution” means a degree-granting institution that is not accredited or a candidate for accreditation by at least one accrediting agency recognized by the United States Department of Education.

“University of Hawaii system” means the post-secondary educational institution, including all campuses and community colleges, established and existing pursuant to article X, section 5, of the Hawaii state constitution and chapter 304A.

§ -3 Applicability of chapter; exceptions. (a) This chapter shall not apply to:

- (1) Schools or educational programs conducted by firms, corporations, or persons for the training of their own employees;
- (2) Apprenticeship or other training programs provided by labor unions to union members or applicants for union membership;
- (3) Schools or educational programs that provide courses of instruction that do not lead to the conferring of a degree;
- (4) Schools or educational programs that offer seminars, refresher courses, and programs of instruction sponsored by professional, business, or farming organizations or associations for their members or the employees of their members;
- (5) Schools or educational programs that offer courses of instruction conducted by public school complex areas;

- (6) Schools, courses of instruction, or courses of training that are offered by a vendor or the purchaser or prospective purchaser of the vendor's product when the objective of the school or course is to enable the purchaser or the purchaser's employees to gain the skills and knowledge necessary to use the product;
 - (7) Schools and educational programs conducted by religious entities that are owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation and that award only religious degrees or certificates, including but not limited to a certificate of Talmudic studies, an associate of Biblical studies, a bachelor of religious studies, a master of divinity, or a doctor of divinity;
 - (8) Non-degree-granting post-secondary educational institutions licensed by any entity of the State or governed by any other chapter of the Hawaii Revised Statutes;
 - (9) Schools and educational programs that offer courses of instruction exclusively through online and distance education; and
 - (10) Unaccredited post-secondary educational institutions governed by chapter 446E.
- (b) Nothing in this subsection shall prohibit an entity listed in subsection (a) or section -4 from applying for authorization; provided that the entity shall meet the criteria for and comply with all authorization requirements under this chapter.

§ -4 Authorization of the University of Hawaii system. The University of Hawaii system, established as an educational institution pursuant to Article X, section 5, of the Hawaii state constitution, is hereby authorized by the State to provide educational programs in and from this State. The University of Hawaii system shall be subject to section -17. The department may impose sanctions pursuant to section -11 on the University of Hawaii system in accordance with the requirements of this chapter.

§ -5 Powers and duties of the director. (a) The director shall:

- (1) Unless otherwise provided by law, adopt, amend, and repeal rules pursuant to chapter 91 to carry out the purposes of this chapter;
- (2) Adopt policies and procedures as necessary, without regard to chapter 91, for reauthorization pursuant to section -10;
- (3) Issue declaratory rulings or informal, non-binding interpretations and conduct contested case proceedings pursuant to chapter 91;
- (4) Grant, deny, confirm, forfeit, renew, reinstate, or restore authorizations, including conditional, probationary, or qualified authorizations;
- (5) Revoke, suspend, condition, or otherwise limit the authorization of an institution for any violation of this chapter, applicable rules, or the Higher Education Act of 1965, as amended;
- (6) Establish requirements for authorization in accordance with this chapter;
- (7) Investigate and conduct hearings regarding any violation of this chapter, applicable rules, or the Higher Education Act of 1965, as amended;
- (8) Create fact-finding committees, including the appointment of one or more advisory committees, which may assist the department and make recommendations for consideration;

- (9) Contract with qualified persons, including investigative and legal staff, who may be exempt from chapter 76, to assist the director in exercising the director's powers and duties;
- (10) Subpoena witnesses and documents, administer oaths, and receive affidavits and oral testimony, including communications through electronic media;
- (11) Establish the types and amounts of fees that the department may assess in order to carry out the purposes of this chapter;
- (12) Establish policies to require authorized institutions to submit to the department, upon request, data that is directly related to student enrollment and degree completion and, if applicable, student financial aid and educator preparation programs, which policies shall include a determination as to whether data received may be disclosed to the public;
- (13) Establish policies and procedures for the handling of proprietary information;
- (14) Enter into any post-secondary education authorization reciprocity agreement with other post-secondary educational authorizers of schools whose home state is not Hawaii pursuant to section -16; and
- (15) Do any and all things necessary or incidental to the exercise of the director's powers and duties.

(b) The director may cooperate with the federal government to qualify the State to receive funds made available under the Higher Education Act of 1965, P.L. 89-329, as amended from time to time. In addition, the department may serve as the state agency for the receipt of federal funds when federal legislation dealing with higher education or post-secondary education requires, as a condition of the receipt of federal funds, the designation of a state agency that is broadly representative of the general public and of post-secondary education in the State and when agencies other than the department may not qualify.

(c) No funds appropriated by the legislature may be used to aid a person attending an institution not owned or exclusively controlled by the State or a department of the State or to pay for any staff work distributing federal or private funds to students attending such schools. The maximum amount of any grant awarded under the Hawaii state incentive grant program shall be equal to the maximum allowed by federal law.

(d) The department, when appropriate and necessary, may be assisted by other state agencies, including but not limited to the University of Hawaii system and the department of education.

(e) The director, acting through the department of the attorney general, may proceed by injunction against any violation of this chapter, but an injunction proceeding or an order issued therein or as a result thereof shall not bar the imposition of any other penalty for a violation of this chapter.

§ -6 Department's powers and authority. (a) The department shall administer the provisions of this chapter and any administrative rules, policies, and procedures adopted by the director.

(b) To administer this chapter, the department shall:

- (1) Maintain a list of the private colleges or universities, seminaries, and religious training institutions that have been authorized and make this list available to the public;
- (2) Maintain a list of the states with which the director has entered into a post-secondary education authorization reciprocity agreement and make this list available to the public; and

(3) Receive, arbitrate, investigate, and process complaints.

(c) In conducting an investigation, the department may physically inspect the private college or university, seminary, or religious training institution's facilities and records, and the institution shall have an affirmative duty to cooperate with requests from the department for information regarding any investigation or inspection.

(d) In administering its responsibilities, the department may assess fees sufficient to provide for the self-sufficiency of the program pursuant to section 26-9(o).

§ -7 Awarding degrees. (a) A person, partnership, corporation, company, society, or association with a physical presence in the State shall not award, bestow, confer, give, grant, convey, or sell to any other person a degree or honorary degree upon which is inscribed, in any language, the word "associate", "bachelor", "baccalaureate", "post-baccalaureate", "master", or "doctor", or any abbreviation thereof, or offer courses of instruction or credits purporting to lead to any such degree, unless the person, partnership, corporation, company, society, or association is:

- (1) A private college or university, seminary, or religious training institution that is authorized pursuant to this chapter;
- (2) A school or educational program conducted by a religious entity that is owned, controlled, operated, and maintained by a religious organization lawfully operating as a nonprofit religious corporation and that awards only religious degrees or certificates, including but not limited to a certificate of Talmudic studies, associate of Biblical studies, a bachelor of religious studies, a master of divinity, or a doctor of divinity;
- (3) An unaccredited post-secondary educational institution governed under chapter 446E; or
- (4) A part of the University of Hawaii system.

(b) Notwithstanding subsection (a), in order to award degrees in the State, all private colleges and universities, seminaries, and religious training institutions operating in the State on the effective date of this chapter shall be authorized no later than July 1, 2014.

§ -8 Authorization to operate in the State; private college or university.

(a) To operate in the State, a private college or university shall:

- (1) Be party to a reciprocity agreement to which the State is a member; or
- (2) Apply for, on a form prescribed by the department, and receive authorization from the director; provided that the private college or university meets the requirements of section -14; provided further that a private college or university shall apply for and obtain a separate authorization for each campus, branch, or site that is separately accredited. A separate authorization shall not be required for additional professional accreditations. A private, nonprofit college or university shall submit verification of its nonprofit status with its application.

(b) Upon receiving an application for authorization, the director shall review the application to confirm that the private college or university is accredited. The director shall not approve an application from a private college or university that, in the two years preceding submission of the application, has:

- (1) Had its accreditation suspended or withdrawn;
- (2) Been prohibited from operating in another state; or

- (3) Substantially the same owners, governing board, or principal officers as a private college or university that has:
 - (A) Had its accreditation suspended or withdrawn; or
 - (B) Been prohibited from operating in another state.

(c) To operate in the State, a private college or university shall be accredited on the basis of an on-site review.

(d) A private college or university shall notify the department within thirty days of any material information related to an action by the institution's accrediting body concerning the institution's accreditation status, including but not limited to reaffirmation or loss of accreditation, approval of a request for change, a campus evaluation visit, a focused visit, or approval of additional locations. In addition, the institution shall immediately notify the department if the institution's accrediting body is no longer recognized by the United States Department of Education.

(e) A private college or university under the jurisdiction of the department shall notify the department at least one year prior to its ceasing of operations in the State.

(f) A private college or university authorized pursuant to this chapter shall pay any and all fees established pursuant to section -18.

§ -9 Authorization to operate in the State; seminary or religious training institutions. (a) To operate in the State, a seminary or religious training institution shall:

- (1) Be party to a reciprocity agreement to which the State is a member; or
- (2) Apply for, on a form prescribed by the department, and receive authorization from the director; provided that the institution shall establish that it qualifies as a bona fide religious training institution and as an institution of post-secondary education.

(b) Nothing in this section shall preclude a seminary or religious training institution from seeking accreditation.

§ -10 Reauthorization. (a) A private college or university that is authorized pursuant to section -8 and maintains its accreditation shall apply to the department for reauthorization every two years. A private college or university that has its accreditation reaffirmed without sanction and continues to demonstrate its compliance with section -14, shall otherwise be presumed to be qualified for reauthorization under this chapter for a period of two years.

(b) A seminary or religious training institution authorized pursuant to section -9 shall apply to the department for reauthorization every two years. A seminary or religious training institution that continues to meet the authorization requirements of this chapter shall otherwise be presumed to be qualified for reauthorization under this chapter for a period of two years.

(c) Private colleges or universities, seminaries, and religious training institutions applying for reauthorization under this section shall pay the fees required pursuant to section -18.

(d) If a private college or university, seminary, or religious training institution cannot demonstrate that it meets the authorization requirements of this chapter, the director shall deny the application for reauthorization. The director shall provide the private college or university, seminary, or religious training institution with written notification of the denial of the application for reauthorization and the basis for the denial. If, within six months of receiving notice that its application for reauthorization has been denied, the private college or university, seminary, or religious training institution corrects the action

or condition upon which the denial was based, it may reapply for reauthorization. If the private college or university, seminary, or religious training institution does not correct the action or condition upon which the denial was based, it may submit a new application for authorization pursuant to section -8 or -9, whichever is applicable, once the action or condition has been corrected.

(e) If a private college or university is under a sanction from its accrediting body at the time that it submits its application for reauthorization, the director may:

- (1) Approve the private college or university's reauthorization; or
- (2) Grant probationary approval of the private college or university's reauthorization; provided that if the private college or university is granted probationary reauthorization:
 - (A) The department shall provide the private college or university with written notice of its probationary status;
 - (B) The private college or university shall reapply for reauthorization on an annual basis until the accrediting body lifts its sanction; and
 - (C) The private college or university shall provide the department with an annual report on its progress toward removing the sanction.

§ -11 Grounds for refusal to reauthorize, reinstate, or restore and for revocation, suspension, probation, or denial; condition of authorization or sanctions. (a) In addition to any other acts or conditions provided by law, the director may refuse to reauthorize, reinstate or restore, or may deny, revoke, suspend, or condition in any manner, including but not limited to placement on probation, any authorization for any one or more of the following acts or conditions on the part of the institution or applicant:

- (1) Failure to meet or maintain the conditions and requirements necessary to qualify for or maintain an authorization;
- (2) Failure to maintain accreditation as required by this chapter;
- (3) Engaging in false, fraudulent, or deceptive advertising, or making untruthful or improbable statements;
- (4) Procuring an authorization, reauthorization, or certification through fraud, misrepresentation, material omission, or deceit;
- (5) Misconduct, incompetence, gross negligence, or manifest incapacity in the operation of the institution;
- (6) Revocation, suspension, deauthorization, or other disciplinary action by another state or federal agency against an institution or applicant for any reason provided by this chapter or rules adopted hereunder;
- (7) Criminal conviction, whether by nolo contendere or otherwise, of a penal crime directly related to the qualifications, functions, or duties of the institution or applicant in any jurisdiction in which the institution operates;
- (8) Failure to report in writing to the department any disciplinary decision issued against the institution or the applicant in another jurisdiction within thirty days of the disciplinary decision;
- (9) Failure to report in writing to the department any change in accreditation status by any accrediting agency;
- (10) Failure to demonstrate or maintain a record of financial integrity; or
- (11) Violating any provision of this chapter or rules adopted hereunder.

(b) It shall be a violation of this chapter for a private college or university, seminary, or religious training institution or its agent to:

- (1) Make or cause to be made any statement or representation, oral, written, or visual, in connection with the offering of educational services if the private college or university, seminary, or religious training institution or its agent knows or reasonably should have known the statement or representation to be false, inaccurate, or materially misleading;
- (2) Falsely represent or deceptively conceal, directly or by implication, through the use of a trade or business name, the fact that the institution is a private college or university, seminary, or religious training institution;
- (3) Adopt a name, trade name, or trademark that represents falsely, directly or by implication, the quality, scope, nature, size, or integrity of the private college or university, seminary, or religious training institution or its educational services;
- (4) Intentionally and materially represent falsely, directly or by implication, that students who successfully complete a course or program of instruction may transfer the credits earned to any institution of higher education;
- (5) Intentionally and materially represent falsely, directly or by implication, in its promotional materials or in any other manner:
 - (A) Its size, location, facilities, or equipment;
 - (B) The number, educational experience, or qualifications of its faculty;
 - (C) The extent or nature of any approval received from any state agency; or
 - (D) The extent or nature of any accreditation received from any accrediting agency, body, or association;
- (6) Provide prospective students with testimonials, endorsements, or other information that has the tendency to mislead or deceive prospective students or the public regarding its current practices;
- (7) Designate or refer to its sales representatives by titles that imply that the sales representatives have training in academic counseling or advising if they do not; and
- (8) Represent, directly or by implication, that it is authorized by the State or approved or accredited by an accrediting agency or body when it has not been authorized, approved, or accredited.

(c) Any private college or university, seminary, or religious training institution or its agent that violates this chapter may be subject to one or more of the following sanctions:

- (1) A fine equal to a sum of not less than \$500 or more than \$10,000 for each violation. The penalties provided in this subsection are cumulative to the remedies or penalties available under all other laws of this State. Each day that a violation occurs shall be considered a separate violation;
- (2) An order directing corrective action on the part of the institution;
- (3) An order of restitution to one or more affected students;
- (4) Revocation, suspension, probation, or conditions on the institution's authorization;
- (5) An order relating to cessation of operations or alternate enrollment; or
- (6) The payment of costs of investigation and legal action, irrespective of the outcome.

§ -12 Requirements to maintain authorization. (a) Authorization by the director shall be conditioned on the maintenance of accreditation by the institution and compliance with section -14. Authorization shall be automatically suspended effective as of the date of the cancellation or expiration of accreditation or the cancellation or expiration of the surety bond if a surety bond was filed with the department. The director shall not reinstate the affected institution until satisfactory proof of compliance is submitted to the department. Failure to reinstate a suspended authorization within sixty days of suspension shall result in the termination of the authorization, and the institution shall forfeit all fees and shall be required to apply for authorization as a new applicant.

(b) An institution's authorization shall be placed on probationary status without further action by the department in the event that:

- (1) The institution is placed on probationary status by its accrediting agency, contemporaneous with the action of such agency;
- (2) The institution's accrediting agency ceases to be recognized by the United States Department of Education; or
- (3) In the case of a seminary or religious training institution, the seminary or religious training institution no longer meets the definition of such under this chapter.

(c) An institution may, within fifteen days of the receipt of the notification of probation under this section, request an administrative hearing for review pursuant to chapter 91.

(d) If an institution's authorization is revoked due to the institution's loss of accreditation, the institution shall provide written notice to all students within thirty days following the date of revocation.

(e) A private college or university, seminary, or religious training institution that is authorized pursuant to this chapter shall:

- (1) Not make or cause to be made any oral, written, or visual statement or representation that violates section -11(b);
- (2) Provide the department with a copy of its enrollment agreement, if applicable, in accordance with its reauthorization schedule;
- (3) Provide bona fide instruction, in accordance with the standards and criteria set by its accrediting body; and
- (4) If its ownership changes, provide the department with any material information concerning the transaction at least thirty days prior to the transaction.

§ -13 Deposit of records upon discontinuance. (a) If a private college or university, seminary, or religious training institution under the jurisdiction of the department ceases operating within the State, the institution, its owner, or the owner's designee, and its governing board shall be jointly and severally liable to deposit with the department the institution's educational records in a form to be prescribed by the director.

(b) If the director determines that the records of a private college or university, seminary, or religious training institution that ceases operating within the State are in danger of being destroyed, secreted, mislaid, or otherwise made unavailable to the department, the director may seek a court order authorizing the department to seize or take possession of the records and seek additional relief as may be appropriate.

(c) The director or the department of the attorney general may enforce this section by filing a request for an injunction with a court of competent jurisdiction.

(d) The department shall permanently retain any student transcripts received pursuant to this section. The department shall retain any other records

obtained pursuant to this section for ten years; provided that after this period, the department shall dispose of the records in a manner that will adequately protect the privacy of any personal information included in the records.

(e) For the purposes of this section, "private college or university" shall not include public, out-of-state institutions.

(f) Nothing in this section shall prohibit the department from contracting with any third party for the storage and maintenance of any records required to be deposited with the department pursuant to this section.

§ -14 Financial integrity; surety bond. (a) A private college or university shall provide evidence of financial integrity at the time of its application for authorization. A private college or university may demonstrate financial integrity by meeting the criteria specified in subsections (b), (c), or (d).

(b) A private college or university may demonstrate financial integrity if it:

- (1) Has been accredited for at least ten years;
- (2) Has operated continuously in the State for at least ten years;
- (3) Has not filed for bankruptcy protection pursuant to title 11 of the United States Code;
- (4) Maintains a composite score of at least 1.5 on its equity, primary reserve, and net income ratios, as required in title 34 Code of Federal Regulations section 668.172; and
- (5) Meets or exceeds the pro rata refund policies required by the United States Department of Education in title 34 Code of Federal Regulations part 668; provided that if it does not participate in federal financial aid programs, its refund and termination procedures shall comply with the requirements of its accrediting body;

provided that a private college or university is not required to meet the criteria specified in paragraphs (1) and (2) if the private college or university is part of a group of private colleges or universities that is owned and operated by a common owner and the other private colleges and universities meet the criteria specified in paragraphs (1) and (2).

(c) A private college or university may also demonstrate financial integrity if it:

- (1) Has received and maintains full accreditation without sanction from an accrediting body that is recognized by the United States Department of Education, and which accrediting body requires the private college or university to maintain a surety bond or an escrow account or has affirmatively waived or otherwise removed that requirement for the private college or university;
- (2) Operates an instructional facility in the State;
- (3) Annually provides to the department audited financial statements for the most recent fiscal year that demonstrate that the private college or university maintains positive equity and profitability;
- (4) Maintains a composite score of at least 1.5 on its equity, primary reserve, and net income ratios, as required in title 34 Code of Federal Regulations section 668.172; and
- (5) Meets or exceeds the pro rata refund policies required by the United States Department of Education in title 34 Code of Federal Regulations part 668; provided that if it does not participate in federal financial aid programs, its refund and termination procedures shall comply with the requirements of its accrediting body.

(d) If a private college or university cannot demonstrate financial integrity as provided in subsections (b) and (c), the private college or university shall

file with the director a surety bond in favor of the State in an amount described under subsection (f) prior to receiving authorization under this chapter. The surety bond shall be executed by the private college or university as the principal by a surety company authorized to do business in the State and shall run concurrently with the authorization period and any period of reauthorization, unless terminated or cancelled by the surety company.

(e) The surety bond under subsection (d) shall be conditioned to provide indemnification to any student or enrollee, or to any parent or legal guardian of a student or enrollee, whom the director finds to have suffered a loss of tuition or fees as a result of any act or practice that is a violation of this chapter and to provide alternative enrollment as provided in section -15 for students enrolled in a private college or university that ceases operation.

(f) The amount of the surety bond that a private college or university submits pursuant to subsection (d) shall be the greater of \$50,000 or an amount equal to a reasonable estimate of the maximum prepaid, unearned tuition and fees of the private college or university, excluding prepaid tuition revenue that consists of government grants or federal student loans and grants authorized under title IV of the Higher Education Act of 1965, 20 United States Code 1070 et seq. for the period or term during the applicable academic year for which programs of instruction are offered, including but not limited to programs offered on a semester, quarter, monthly, or class basis; provided that the private college or university shall use the period or term of greatest duration and expense in determining this amount if its academic year consists of one or more periods or terms. Following the initial filing of the surety bond with the department, the private college or university shall recalculate the amount of the surety bond annually based on a reasonable estimate of the maximum prepaid, unearned tuition and fees received by the institution for the applicable period or term.

(g) The authorization for a private college or university shall be suspended by operation of law when it is no longer covered by a surety bond as required by this section. After receipt of a notice of cancellation from the surety, the department shall give written notice to the private college or university at its last-known address, at least forty-five days prior to the release of the surety bond, to the effect that the private college or university's authorization is suspended by operation of law until it files evidence of a surety bond in a like amount as the surety bond being released.

(h) The principal on a surety bond filed under the provisions of this section shall be released from the surety bond after the principal serves written notice thereof to the department at least sixty days prior to the release. The release shall not discharge or otherwise affect a claim filed by a student or enrollee or the student or enrollee's parent or legal guardian pursuant to section -15 for a loss of tuition or fees that occurred while the surety bond was in effect or that occurred under any note or contract executed during any period of time when the surety bond was in effect, except when another surety bond is filed in a like amount and provides indemnification for any such loss.

(i) Each private college or university that files a surety bond pursuant to this section shall provide in a report to the department annual verification of continued coverage as required by this section no later than January 1 of each year.

(j) A seminary or religious training institution shall not be subject to the requirements of this section.

§ -15 Claims against a private college or university; cessation of operation; alternative enrollment. (a) A student or enrollee, or a parent or legal guardian of the student or enrollee, who claims loss of tuition or fees as a result of

cessation of operations may file a claim with the department if the claim results from an act or practice that violates a provision of this chapter. Claims that are filed with the department shall be public records and subject to the provisions of chapter 92F; provided that the department shall not make the records public if the release would violate a federal privacy law.

(b) If a private college or university ceases operation, the director may make demand on the surety bond upon the demand for a refund by a student or the parent or legal guardian of a student or the implementation of alternative enrollment for the students enrolled in the institution, and the principal on the surety bond filed pursuant to section -14(d) shall pay the claim due in a timely manner. To the extent practicable, the director shall use the amount of the surety bond to provide alternative enrollment for students of the institution that ceases operation through a contract with another authorized private college or university, the University of Hawaii system, an area vocational school, or any other arrangement that is acceptable to the department. The alternative enrollment provided to a student shall replace the original enrollment agreement, if any, between the student and the private college or university; provided that the student shall make tuition and fee payments as required by the original enrollment agreement, if any.

(c) A student who is enrolled in a private college or university that ceases operation and who declines the alternative enrollment required to be offered pursuant to subsection (b) may file a claim with the department for the student's prorated share of the prepaid, unearned tuition and fees that the student paid, subject to the limitations of subsection (d). The department shall not make a subsequent payment to a student, unless the student submits proof of satisfaction of any prior debt to a financial institution in accordance with rules adopted by the director.

(d) If the amount of the surety bond filed under section -14(d) is less than the total prepaid, unearned tuition and fees that have been paid by students at the time that the private college or university ceases operation, the department shall prorate the amount of the surety bond among the students.

(e) This section shall apply only to those students enrolled in the private college or university at the time it ceases operation, and once a private college or university ceases operation, no new students shall be enrolled therein.

(f) The director shall determine whether offering alternative enrollment for students enrolled in an authorized private college or university that ceases operation is practicable without the federal government's designation of the department as trustee for student loans, Pell grants, and other student financial aid assistance.

(g) If a private college or university ceases to operate in the State, the department of the attorney general may file a claim against the private college or university to recover restitution for the enrolled students of the private college or university.

(h) A seminary or religious training institution shall not be subject to the requirements of this section.

§ -16 Reciprocity. The director may enter into any post-secondary education authorization reciprocity agreement; provided that the authorization standards of the reciprocity agreement shall be comparable to or exceed the authorization requirements of this chapter and any applicable administrative rules.

§ -17 Complaints; injunctive proceedings. (a) A student or former student of the University of Hawaii system, a private college or university, seminary, or religious training institution may file a complaint with the department

concerning the institution at which the student is or was enrolled; provided that if a former student files a complaint, the complaint shall be filed within two years after the former student discontinued enrollment at the institution; provided that the two year restriction on complaints shall not apply to complaints related to obtaining transcripts.

(b) The department may investigate complaints based on possible violations of this chapter or rules adopted hereunder. The department may initiate and investigate complaints based on information the department receives concerning possible violations of this chapter or rules adopted hereunder.

(c) Nothing in this section shall give the department jurisdiction to consider complaints that infringe on the academic or religious freedom of, or question the curriculum content of, a private college or university, seminary, or religious training institution.

(d) Upon receipt of a complaint pursuant to subsections (a) or (b), the department shall determine whether the complaint was properly filed. The complaint shall warrant investigation only after the student or former student has exhausted all administrative remedies available at the University of Hawaii system, private college or university, seminary, or religious training institution; provided that if the complaint involves a violation of state or federal criminal law, this requirement shall not apply. If a complaint warrants investigation, the department shall forward the complaint to the University of Hawaii system, private college or university, seminary, or religious training institution. The University of Hawaii system, private college or university, seminary, or religious training institution shall have thirty days to respond in writing to the complaint. During the thirty-day period, the University of Hawaii system, private college or university, seminary, or religious training institution, with the department's assistance, may attempt to resolve the complaint with the student. If the department determines at any time that the complaint no longer warrants investigation, the department shall dismiss the complaint.

(e) If a complaint is not resolved within the thirty-day period, the department may:

- (1) Dismiss the complaint based on the response of the University of Hawaii system, private college or university, seminary, or religious training institution;
- (2) Investigate and, where appropriate, take disciplinary action in a manner consistent with chapter 91.

§ -18 Fees; public hearing. (a) An institution applying for authorization shall pay \$10,000 to the department upon application for authorization under this chapter and every two years thereafter upon application for reauthorization.

(b) The director may assess fees as provided in this chapter and, notwithstanding any other law to the contrary, may change the amount of the fees required by this section at any time without regard to chapter 91, if the director:

- (1) Holds at least one public hearing to discuss and take testimony on the proposed fee change; and
- (2) Provides public notice at least thirty days prior to the date of the public hearing.

(c) Fees collected pursuant to this section shall be deposited into the post-secondary education authorization subaccount established pursuant to section 26-9(o).

§ -19 Post-secondary education authorization special subaccount. (a) All moneys collected pursuant to section -18 shall be deposited into the post-

secondary education authorization special subaccount of the compliance resolution fund established pursuant to section 26-9(o).

(b) Any law to the contrary notwithstanding, the moneys in the special subaccount shall be used to fund the operations of the department to carry out its duties under this chapter. Any law to the contrary notwithstanding, the director may use the moneys in the special subaccount to employ personnel to carry out the department's duties under this chapter. The moneys in the special subaccount may be used to train personnel as the director deems necessary and for any other activity related to this chapter."

PART III

SECTION 3. The department of commerce and consumer affairs may adopt interim rules to carry out the purposes of this Act without regard to chapter 91 or 201M, Hawaii Revised Statutes; provided that:

- (1) The department shall hold at least one public hearing prior to the adoption of interim rules; and
- (2) The interim rules shall be effective for no more than one year after their adoption.

SECTION 4. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (o) to read as follows:

"(o) Every person licensed under any chapter within the jurisdiction of the department of commerce and consumer affairs and every person licensed subject to chapter 485A or registered under chapter 467B shall pay upon issuance of a license, permit, certificate, or registration a fee and a subsequent annual fee to be determined by the director and adjusted from time to time to ensure that the proceeds, together with all other fines, income, and penalties collected under this section, do not surpass the annual operating costs of conducting compliance resolution activities required under this section. The fees may be collected biennially or pursuant to rules adopted under chapter 91, and shall be deposited into the special fund established under this subsection. Every filing pursuant to chapter 514E or section 485A-202(a)(26) shall be assessed, upon initial filing and at each renewal period in which a renewal is required, a fee that shall be prescribed by rules adopted under chapter 91, and that shall be deposited into the special fund established under this subsection. Any unpaid fee shall be paid by the licensed person, upon application for renewal, restoration, reactivation, or reinstatement of a license, and by the person responsible for the renewal, restoration, reactivation, or reinstatement of a license, upon the application for renewal, restoration, reactivation, or reinstatement of the license. If the fees are not paid, the director may deny renewal, restoration, reactivation, or reinstatement of the license. The director may establish, increase, decrease, or repeal the fees when necessary pursuant to rules adopted under chapter 91. The director may also increase or decrease the fees pursuant to section 92-28.

There is created in the state treasury a special fund to be known as the compliance resolution fund to be expended by the director's designated representatives as provided by this subsection. Notwithstanding any law to the contrary, all revenues, fees, and fines collected by the department shall be deposited into the compliance resolution fund. Unencumbered balances existing on June 30, 1999, in the cable television fund under chapter 440G, the division of consumer advocacy fund under chapter 269, the financial institution examiners' revolving fund, section 412:2-109, the special handling fund, section 414-13, and unencumbered balances existing on June 30, 2002, in the insurance regulation fund, section 431:2-215, shall be deposited into the compliance resolution fund. This provision shall not apply to the drivers education fund underwriters fee, sections

431:10C-115 and 431:10G-107, insurance premium taxes and revenues, revenues of the workers' compensation special compensation fund, section 386-151, the captive insurance administrative fund, section 431:19-101.8, the insurance commissioner's education and training fund, section 431:2-214, the medical malpractice patients' compensation fund as administered under section 5 of Act 232, Session Laws of Hawaii 1984, and fees collected for deposit in the office of consumer protection restitution fund, section 487-14, the real estate appraisers fund, section 466K-1, the real estate recovery fund, section 467-16, the real estate education fund, section 467-19, the contractors recovery fund, section 444-26, the contractors education fund, section 444-29, the condominium education trust fund, section 514B-71, and the mortgage foreclosure dispute resolution special fund, section 667-86. Any law to the contrary notwithstanding, the director may use the moneys in the fund to employ, without regard to chapter 76, hearings officers and attorneys. All other employees may be employed in accordance with chapter 76. Any law to the contrary notwithstanding, the moneys in the fund shall be used to fund the operations of the department. The moneys in the fund may be used to train personnel as the director deems necessary and for any other activity related to compliance resolution.

A separate special subaccount of the compliance resolution fund, to be known as the post-secondary education authorization special subaccount, shall be established for fees collected by the department of commerce and consumer affairs pursuant to chapter . The special subaccount shall be governed by section -19.

As used in this subsection, unless otherwise required by the context, "compliance resolution" means a determination of whether:

- (1) Any licensee or applicant under any chapter subject to the jurisdiction of the department of commerce and consumer affairs has complied with that chapter;
 - (2) Any person subject to chapter 485A has complied with that chapter;
 - (3) Any person submitting any filing required by chapter 514E or section 485A-202(a)(26) has complied with chapter 514E or section 485A-202(a)(26);
 - (4) Any person has complied with the prohibitions against unfair and deceptive acts or practices in trade or commerce; or
 - (5) Any person subject to chapter 467B has complied with that chapter;
- and includes work involved in or supporting the above functions, licensing, or registration of individuals or companies regulated by the department, consumer protection, and other activities of the department.

The director shall prepare and submit an annual report to the governor and the legislature on the use of the compliance resolution fund. The report shall describe expenditures made from the fund including non-payroll operating expenses."

SECTION 5. Section 446E-1.5, Hawaii Revised Statutes, is repealed.

PART IV

SECTION 6. (a) To ensure that the post-secondary education authorization program is in compliance, in a timely manner, with the requirements of the Higher Education Act of 1965, as amended, the department of commerce and consumer affairs may contract for an implementation coordinator or team to assist with the implementation of this Act.

(b) The minimum qualifications for the implementation coordinator or team shall be the following:

- (1) Knowledge and understanding of the United States Department of Education regulations for programs authorized under title IV of the Higher Education Act of 1965, as amended;
 - (2) Experience and familiarity with post-secondary educational institutions and related accreditation processes; and
 - (3) Demonstrated strong written and oral communication skills.
- (c) The scope of work developed pursuant to subsection (a) shall require, at a minimum, the implementation coordinator or team to:
- (1) Develop a comprehensive plan for the implementation of this Act, including consideration of an appropriate authorization fee structure;
 - (2) Assist in developing any policies and procedures, including administrative rules, required for the implementation of this Act;
 - (3) Assist the director of commerce and consumer affairs to meet the reporting requirements of section 9 of this Act; and
 - (4) Assist the director of commerce and consumer affairs in establishing a staffing structure and recruiting of staff to carry out the purposes of this Act.
- (d) The department of commerce and consumer affairs shall be responsible for awarding and overseeing the contract for the implementation coordinator or team. The term of the contract shall be for one year; provided that the department of commerce and consumer affairs and the implementation coordinator or team may enter into supplemental contracts as the department of commerce and consumer affairs deems necessary to carry out the purposes of this Act.
- (e) Chapter 103D, Hawaii Revised Statutes, shall not apply to the contracting of the implementation coordinator or team.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$400,000 or so much thereof as may be necessary for fiscal year 2013-2014 to be paid into the post-secondary education authorization special subaccount of the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes.

SECTION 8. There is appropriated out of the post-secondary education authorization special subaccount of the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes, the sum of \$400,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the contracting of an implementation coordinator or team pursuant to section 6 of this Act.

The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this part.

SECTION 9. The director of commerce and consumer affairs shall report to the legislature no later than twenty days prior to the convening of the regular sessions of 2014 and 2015 on such matters including but not limited to:

- (1) The status of any rulemaking, including interim rules, the department of commerce and consumer affairs has undertaken;
- (2) The number of private colleges or universities, seminaries, and religious training institutions that have applied for authorization under this Act;
- (3) A summary of all complaints, if any, received by the department of commerce and consumer affairs against any private college or university, seminary, and religious training institution authorized pursuant to this Act;

- (4) A summary of all investigations, if any, conducted by the department of commerce and consumer affairs pursuant to this Act;
- (5) The number of private colleges or universities, seminaries, and religious training institutions, if any, that have closed during the reporting period;
- (6) An update on the department of commerce and consumer affairs' efforts in implementing the provisions of this Act;
- (7) An update of the department of commerce and consumer affairs' budget as it relates to the implementation of this Act;
- (8) Any proposed amendments to the authorization fee structure;
- (9) A summary of the department of commerce and consumer affairs' efforts to enter into a reciprocity agreement with any other state, including the status of any reciprocity agreement; and
- (10) Any proposed legislation.

PART V

SECTION 10. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 11. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 12. This Act shall take effect upon its approval; provided that part IV shall take effect on July 1, 2013.

(Approved June 25, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 181

S.B. NO. 960

A Bill for an Act Relating to Foreclosures.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that one little-known problem of the national foreclosure crisis occurs when banks or other mortgagees walk away from a foreclosure. This problem, sometimes referred to as the "zombie title" problem, occurs when homeowners move out after receiving notice of a foreclosure sale but prior to a public sale, the bank, mortgagee, or other financial institution walks away from the foreclosure process and cancels the sale without notifying the homeowners.

The legislature further finds that homeowners legally own their property and the homeowners' names remain on the title until the date of public sale. Without a public sale, the foreclosure process is left in limbo. Homeowners may be left with all of the responsibilities for a property but none of the rights that existed prior to the start of the foreclosure process. Unfortunately for homeowners, there are no regulations that require foreclosing mortgagees in a judicial foreclosure to inform a homeowner when the mortgagee decides not to complete the foreclosure. Unsuspecting homeowners may suffer severe financial penalties as a result of canceled foreclosure sales they knew nothing about.

Therefore, the purpose of this Act is to establish a notice of postponement or cancellation of sale requirement under part IA, chapter 667, Hawaii Revised Statutes, relating to judicial foreclosures.

SECTION 2. Chapter 667, Hawaii Revised Statutes, is amended by adding a new section to part IA to be appropriately designated and to read as follows:

“§667- Postponement, cancellation of sale. (a) The public sale may be either postponed or canceled by the court-appointed commissioner. Notice of the postponement or the cancellation of the public sale shall be:

- (1) Announced by the court-appointed commissioner at the date, time, and place of the last scheduled public sale; and
- (2) Provided to:
 - (A) The mortgagor, the borrower, and the foreclosing mortgagee;
 - (B) Any prior or junior creditors who have a recorded lien on the mortgaged property before the commencement of the foreclosure action; and
 - (C) Any party named in the foreclosure action and any prospective bidder who requested notice of the public sale date or any change in the public sale date.

(b) If there is a postponement of the public sale of the mortgaged property, the court-appointed commissioner shall have a new public notice of the public sale published once in the format described in section 667-20. The new public notice shall state that it is a notice of a postponed sale. The public sale shall take place no sooner than fourteen days after the date of the publication of the new public notice. Not less than fourteen days before the rescheduled date of the public sale, a copy of the new public notice of the rescheduled public sale shall be posted on the mortgaged property or on another real property of which the mortgaged property is a part, and it shall be mailed or delivered to the mortgagor, the borrower, the foreclosing mortgagee, and any other person entitled to receive notification of the foreclosure action under subsection (a)(2).

(c) Upon the fourth postponement of every series of four consecutive postponements, the court-appointed commissioner shall follow all of the public notice of public sale requirements of section 667-20.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 25, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 182

H.B. NO. 1202

A Bill for an Act Relating to Business.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 436B-27, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any person, who engages in an activity requiring a license issued by the licensing authority and who fails to obtain the required license, or who uses any word, title, or representation to induce the false belief that the person is licensed to engage in the activity, other than a ~~[circumstance of first instance involving the inadvertent failure to renew a previously existing license;]~~ licensee who inadvertently fails to maintain licensing requirements under the appropriate licensing statute and who subsequently corrects the failure so that there was no lapse in licensure, shall be guilty of a misdemeanor and each day of unlicensed activity shall be deemed a separate offense.”

SECTION 2. Section 708-8300, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of unlicensed contracting activity if the person:

- (a) Engages in any activity that requires a contractor’s license under chapter 444 and is not a licensed contractor ~~[when] engaging in the activity, other than [an offense involving the inadvertent failure to renew a previously existing license;]~~ a contractor who inadvertently fails to maintain licensing requirements under chapter 444 and who subsequently corrects the failure so that there was a lapse of no more than sixty days in licensure; or
- (b) Uses any word, title, or representation to induce the false belief that the person is licensed under chapter 444 to engage in contracting activity.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2013.

(Approved June 25, 2013.)

ACT 183

H.B. NO. 178

A Bill for an Act Relating to Continuing Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the profession of social workers has been regulated in the State since 1994. Unlike other licensed professions, continuing education credit hours are not currently required for social workers to renew their licenses.

The legislature further finds that social workers provide critically needed services in prevention, intervention, and treatment to a broad spectrum of clients. It is therefore essential that social workers maintain their professional competency and keep abreast of the latest developments in their profession. Requiring continuing education courses for social workers who are renewing their licenses will give assurance to Hawaii’s consumers that social workers are current with the latest developments in their field.

The purpose of this Act is to require licensed social workers in Hawaii to:

- (1) Complete a minimum of fifteen credit hours of continuing education courses for the licensing renewal period beginning July 1, 2013, through June 30, 2016; and
- (2) Complete a minimum of forty-five credit hours of continuing education courses during each licensing renewal period beginning July 1, 2016, and thereafter.

SECTION 2. Section 467E-1, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows: ““Continuing education courses” means courses approved by the National Association of Social Workers, the National Association of Social Workers Chapters, or the Association of Social Work Boards.

“Credit hour” means, except as otherwise provided, the value assigned to fifty minutes of instruction.

“Ethic courses” include ethic theory, ethical reasoning, ethical principles, ethical dilemmas, and professional ethics.”

SECTION 3. Section 467E-11, Hawaii Revised Statutes, is amended to read as follows:

“[§467E-11] Renewals. (a) Every license issued under this chapter shall be renewed triennially on or before June 30, with the first renewal deadline occurring on June 30, 1998. Failure to renew a license shall result in a forfeiture of the license. Licenses which have been so forfeited may be restored within one year of the expiration date upon payment of renewal and penalty fees[-], and in the case of audited licensees, documentary proof of compliance of continuing education. Failure to restore a forfeited license within one year of the date of its expiration shall result in the automatic termination of the license and relicensure may be subject to the person applying as a new applicant and satisfying again all licensing requirements.

(b) Beginning with the renewal for the licensing triennium commencing on July 1, 2013, through June 30, 2016, each licensee shall:

- (1) Pay all required fees; and**
- (2) Complete a minimum of fifteen credit hours of continuing education courses within the renewal period; provided that a minimum of three credit hours shall be in ethic courses.**

(c) Beginning with the renewal for the licensing triennium commencing on July 1, 2016, through June 30, 2019, and prior to every triennial renewal thereafter, each licensee shall:

- (1) Pay all required fees; and**
- (2) Complete a minimum of forty-five credit hours of continuing education courses within the three-year period preceding the renewal date; provided that a minimum of three credit hours shall be in ethic courses.**

(d) A first time licensee shall not be subject to the continuing education requirement for the first license renewal.

(e) Each licensee shall maintain the licensee’s continuing education records. At the time of renewal, each licensee shall certify under oath that the licensee has complied with the continuing education requirement of this section. The director may require a licensee to submit evidence satisfactory to the director that demonstrates compliance with the continuing education requirement of this section.

(f) The director may conduct random audits of licensees to determine compliance with the continuing education requirement. The director shall pro-

vide written notice of an audit to a licensee randomly selected for audit. Within sixty days of notification, the licensee shall provide the director with documentation verifying compliance with the continuing education requirement established by this section."

SECTION 4. Section 467E-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In addition to any other acts or conditions provided by law, the director may refuse to renew, reinstate, or restore, or may deny, revoke, suspend, or condition in any manner any license, or fine any exempt government employee for any one or more of the following acts or conditions on the part of the applicant, licensee, or exempt person:

- (1) Failing to meet or maintain the conditions and requirements necessary to qualify for the granting of a license;
- (2) Being addicted to, dependent on, or being a habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, opium, or cocaine, or other drugs or derivatives of a similar nature;
- (3) Engaging in the practice of social work while impaired by alcohol, drugs, or mental instability;
- (4) Procuring a social work license through fraud, misrepresentation, or deceit;
- (5) Aiding and abetting an unlicensed person to directly or indirectly use the title "social worker" or engage in practice as a "licensed bachelor social worker", "licensed social worker", or "licensed clinical social worker";
- (6) Engaging in professional misconduct, incompetence, gross negligence, or manifest incapacity in the practice of social work;
- (7) Engaging in conduct or practice contrary to recognized standards of ethics for the social work profession;
- (8) Failing to comply, observe, or adhere to any law in a manner such that the director deems the applicant or holder to be an unfit or improper person to hold a social work license;
- (9) Revocation, suspension, or other disciplinary action by another state or federal agency against a licensee or applicant for any reason provided by this section;
- (10) Having a criminal conviction, whether by nolo contendere or otherwise, of a crime directly related to the qualifications, functions, or duties of the social work profession;
- (11) Failing to report in writing to the director any disciplinary decision issued against the licensee or the applicant in another jurisdiction within thirty days of the disciplinary decision;
- (12) Employing, utilizing, or attempting to employ or utilize at any time any person not licensed under this chapter who purports to be or engages in practice as a social worker, licensed bachelor social worker, licensed social worker, or licensed clinical social worker;
- (13) Engaging in the practice of social work beyond the scope of the person's license; [e]
- (14) Making a false statement on any document submitted or required to be filed by this chapter, including a false certification of compliance with the continuing education requirement; or
- [(14)] (15) Violating this chapter or any rules adopted pursuant thereto."

SECTION 5. The director of commerce and consumer affairs shall provide written notice of the contents of this Act to all persons licensed under chap-

ter 467E, Hawaii Revised Statutes, within ninety days of the effective date of this Act.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 25, 2013.)

ACT 184

H.B. NO. 652

A Bill for an Act Relating to Remote Dispensing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 461-10.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (c) to read:
 “(c) No remote dispensing pharmacy shall operate within a five-mile radius of any pharmacy as defined under section 461-1; provided that:
 - (1) This subsection shall not apply to any remote dispensing pharmacy established prior to July 3, 2008 that has previously dispensed and will continue to dispense only prescription medications acquired pursuant to section 340B of the Public Health Service Act, Title 42 United States Code section 256b;
 - (2) If an appropriately designated pharmacy, as defined in section 461-1, is established within a five-mile radius of an existing remote dispensing pharmacy exempted by this subsection, all appropriate measures shall be taken to encourage the relocation of the existing remote dispensing machine within the newly established pharmacy; ~~[and]~~
 - (3) This subsection shall not apply to any remote dispensing pharmacy established in a facility operated by a health maintenance organization regulated pursuant to chapter 432D for the exclusive use of patients served at the facility~~[-]; and~~
 - (4) Beginning on the effective date of Act , Session Laws of Hawaii 2013, no remote dispensing pharmacy shall operate within the State; provided that this paragraph shall not apply to the two existing remote dispensing pharmacies operated by the Waianae Coast Comprehensive Health Center in Nanakuli and Waianae until June 1, 2014.”
2. By amending subsection (o) to read:
 “(o) This section shall not apply to:
 - (1) Mobile medical clinics, provided that no such clinic shall operate in counties with a population less than one hundred thousand persons; or
 - (2) Federally qualified health centers~~[-]; provided that [æ]~~:
 - (A) No remote dispensing pharmacy shall operate within a five-mile radius of any pharmacy as defined under section 461-1, except for those federally qualified health centers that are exempt under subsection (c)(1)~~[-]; and~~
 - (B) Beginning on the effective date of Act , Session Laws of Hawaii 2013, no remote dispensing pharmacy shall operate

within the State; provided that this subparagraph shall not apply to the two existing remote dispensing pharmacies operated by the Waianae Coast Comprehensive Health Center in Nanakuli and Waianae until June 1, 2014.

As used in this subsection, "mobile medical clinic" means a motor vehicle retrofitted for exclusive use as a medical office or clinic for medical services licensed under chapter 321."

SECTION 2. Act 212, Session Laws of Hawaii 2008, as amended by Acts 11 and 96, Session Laws of Hawaii 2009, is amended by amending section 7 to read as follows:

"SECTION 7. This Act shall take effect upon its approval and shall be repealed on January [2, 2014-] 1, 2016."

SECTION 3. In printing this Act, the revisor of statutes shall insert in section 1 of this Act the corresponding act number of this Act.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 25, 2013.)

ACT 185

H.B. NO. 1381

A Bill for an Act Relating to Professional and Vocational Licensing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 436B-14.7, Hawaii Revised Statutes, is amended to read as follows:

"[§436B-14.7] Licensure by endorsement or licensure by reciprocity; initial acceptance by affidavit; temporary license[-]; military spouse. (a) If a ~~[nonresident]~~ military spouse holds a current license in another state, district, or territory of the United States with licensure requirements that the licensing authority determines are equivalent to or exceed those established by the licensing authority of this State, that ~~[nonresident]~~ military spouse shall receive a license pursuant to applicable statutes or requirements of the licensing authority of this State regarding licensure by endorsement or licensure by reciprocity; provided that the ~~[nonresident]~~ military spouse:

- (1) Has not committed an act in any jurisdiction that would have constituted grounds for the limitation, suspension, or revocation of a license; has never been censured or had other disciplinary action taken; has not had an application for licensure denied; or has not refused to practice a profession or vocation for which the ~~[nonresident]~~ military spouse seeks licensure;
- (2) Has not been disciplined by a licensing or credentialing entity in another jurisdiction; is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing or credentialing entity in another jurisdiction; and has not surrendered membership on any professional staff in any professional

association, society, or faculty for another state or licensing jurisdiction while under investigation or to avoid adverse action for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action in this State;

- (3) Pays any fees required by the licensing authority of this State; ~~and~~
- (4) Submits with the application a signed affidavit stating that application information, including necessary prior employment history, is true and accurate. Upon receiving the affidavit, ~~if the licensing authority [shall issue]~~ issues the license to the ~~[nonresident]~~ military spouse ~~[and], the licensing authority may revoke the license at any time if the information provided in the application is found to be false[-]; and~~
- (5) Is the spouse of a military member who is a member in good standing in the active or a reserve component of any of the armed forces of the United States and the military member has orders issued by the appropriate agencies of the armed forces to be stationed in Hawaii for a duration of at least one year.

(b) The licensing authority shall issue to the ~~[nonresident]~~ military spouse a temporary license to allow the ~~[nonresident]~~ military spouse to perform specified services, under the supervision of a professional licensed by this State if appropriate, while completing any requirements necessary for licensure in this State; provided that a temporary license shall only be issued in those professions where credentials, experience, or passage of a national exam is substantially equivalent to or exceed those established by the licensing authority of this State.

(c) The licensing authority shall expedite consideration of the application and issuance of a license by endorsement, license by reciprocity, or temporary license to a ~~[nonresident]~~ military spouse who meets the requirements of this section.

(d) A license by endorsement or reciprocity issued under subsection (a) shall be valid for the same period of time as a license issued pursuant to the requirements of title 25 for the particular profession; provided that the total time period that a military spouse holds a license issued by endorsement or reciprocity under subsection (a) shall not exceed five years in the aggregate."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved June 25, 2013.)

ACT 186

S.B. NO. 502

A Bill for an Act Relating to Real Estate Seller Disclosure.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the adequate disclosure of documents is a critical component of all real property transactions. The seller's disclosure law, codified as chapter 508D, Hawaii Revised Statutes, requires the disclosure of restrictive covenants to be provided at the same time as the seller's real property disclosure form, if the property is located within a planned community. The legislature notes that other chapters within the Hawaii Revised Statutes contain different definitions for a "planned community". These multiple

definitions create confusion about whether and how the disclosure provision applies to planned community associations.

The purpose of this Act is to eliminate confusion relating to application of the seller disclosure law by:

- (1) Establishing a uniform standard for disclosure for condominium projects, cooperative housing corporations, and other community associations;
- (2) Clarifying the types of documents that are required to be disclosed;
- (3) Requiring the disclosure of documents within ten days after the title report is received; and
- (4) Allowing for the electronic receipt of documents with the buyer's consent.

SECTION 2. Chapter 508D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§508D- Disclosure of documents; required documentation. (a) If the residential real property being offered for sale is subject to a recorded declaration, the seller shall provide the following documents and any amendments or supplements thereto, to the extent applicable:

- (1) Articles of incorporation or other document, if any, creating the corporation or association whereby the corporation or association has the power to enforce the declaration;
- (2) Bylaws of the corporation or association;
- (3) Declaration or similar organizational documents, and any exhibits thereto; and
- (4) Any rules relating to the use of common areas, architectural control, maintenance of units, or payment of money as a regular assessment or otherwise in connection with the provisions, maintenance, or service for the benefit of the residential real property or other real property or common areas.

(b) If the residential real property is otherwise subject to restrictions or conditions on use, either because of covenants contained in the deed for the property or because of another recorded document, the disclosure shall also include all documentation relating to any restrictions or conditions, including but not limited to any unrecorded rules or guidelines that may have been issued by any entity responsible for enforcing those restrictions or guidelines.

(c) Notwithstanding any other provision in this chapter to the contrary, the seller shall not be required to provide the documentation required under subsection (a) until ten calendar days after the seller and buyer have received a current title report for the property offered for sale. Upon receipt of the required documentation, the buyer shall have fifteen calendar days to examine the documents and decide whether to rescind the real estate purchase contract. If the buyer decides to rescind the real estate purchase contract, the buyer shall deliver to the seller within the fifteen-day period written notification of the buyer's decision to rescind the real estate purchase contract. Failure to deliver the written notification to the seller within the fifteen-day period shall be deemed an acceptance of the property offered for sale with the conditions, covenants, or restrictions on use set forth in the documents.

The right of rescission set forth in this subsection shall be in addition to the rights of rescission set forth in sections 508D-5, 508D-6, and 508D-13.

The seller and the buyer may agree in writing to reduce or extend the time periods and deadlines set forth in this subsection.

(d) If the required documents under this section are available electronically on the Internet, the seller, in lieu of providing hard copies of the documents and with the buyer's consent, may provide a written statement to the buyer that directs the buyer to the internet address or addresses where the documents are located.

(e) Compliance with this section shall fulfill the seller's duty of disclosure of material facts relating to a recorded declaration or other recorded restrictions or conditions on use of the property being offered for sale."

SECTION 3. Section 508D-1, Hawaii Revised Statutes, is amended as follows:

1. By adding four new definitions to be appropriately inserted and to read:

"Common area" means real property that is designated as common area in or pursuant to a declaration, that is owned or leased by the association under the declaration, or that is otherwise available for the use of members of the association.

"Condominium project" means a real estate condominium project; or a plan or project whereby a condominium of two or more units located within the condominium property regime have been sold or leased or are offered or proposed to be offered for sale or lease.

"Cooperative housing corporation" means a corporation having only one class of stock outstanding, each of the stockholders of which is entitled by reason of the shareholder's ownership of stock in the corporation to occupy for dwelling purposes a dwelling unit in a building owned or leased by the corporation, and no stockholder of which is entitled, either conditionally or unconditionally, to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation.

"Declaration" means any recorded document, however denominated, in favor of or enforceable by a cooperative housing corporation, an association of owners of a condominium project, or other nonprofit, incorporated or unincorporated association, that restricts or conditions the use of the real property being offered for sale, or imposes obligations on the owner of the residential real property being offered for sale with respect to maintenance or operational responsibility for the common areas, architectural control, maintenance of the residential real property being offered for sale, or services for the benefit of the residential real property being offered for sale or other property subject to the declaration including the common areas."

2. By amending the definition of "disclosure statement" to read:

"Disclosure statement" means a written statement prepared by the seller, or at the seller's direction, that purports to fully and accurately disclose all material facts relating to the residential real property being offered for sale that:

- (1) Are within the knowledge or control of the seller;
- (2) Can be observed from visible, accessible areas; or
- (3) Are required to be disclosed under sections 508D-4.5 and 508D-15.

[If the residential real property being offered for sale is in a planned community as defined in section 421J-2, "disclosure statement" includes the planned community declaration and association documents as those terms are defined in section 421J-2, and if the property is otherwise subject to restrictions or conditions on use, either because of covenants contained in the deed for the property or because of another recorded document, the disclosure statement shall also include all documentation relating to any restrictions or conditions, including but not limited to any unrecorded rules or guidelines that may have been issued by any entity responsible for enforcing those restrictions or conditions. Except

~~for the disclosures required under section 508D-15 and this definition, no seller shall have any duty to examine any public records when preparing a disclosure statement.]”~~

SECTION 4. Section 508D-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A seller or the seller’s agent shall prepare the disclosure statement in good faith and with due care. A buyer shall have no cause of action against a seller or seller’s agent for, arising out of, or relating to the providing of a disclosure statement when the disclosure statement is prepared in good faith and with due care. For purposes of this section, “in good faith and with due care” includes honesty in fact in the investigation, research, and preparation of the disclosure statement and may include information on the following:

- (1) Facts based on only the seller’s personal knowledge;
- (2) Facts provided to the seller by governmental agencies and departments;
- (3) Existing reports prepared for the seller by third-party consultants, including without limitation a:
 - (A) Licensed engineer;
 - (B) Land surveyor;
 - (C) Geologist;
 - (D) Wood-destroying insect control expert; or
 - (E) Contractor, or other home inspection expert;
 dealing with matters within the scope of the professional’s license or expertise for the purpose of the disclosure statement; and
- (4) Facts provided to the seller by a managing agent of a homeowner’s association, including without limitation, a condominium, cooperative, or community association.

Notwithstanding this subsection, a seller or seller’s agent shall be under no obligation to engage the services of any person in the investigation, research, or preparation of the disclosure statement. The failure to engage the services of any such person for this purpose shall not be deemed an absence of good faith or due care by the seller or the seller’s agent in the investigation, research, or preparation of the disclosure statement. The delivery to the buyer of reports or facts within the scope of paragraph (2), (3), or (4) after the date of the initial disclosure statement shall be considered an amendment of the disclosure statement.”

SECTION 5. Section 508D-15, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Except as required under subsections (a) and (b), and ~~[in the definition of “disclosure statement” in section 508D-1,]~~ as required under section 508D-, the seller shall have no duty to examine any public record when preparing a disclosure statement.”

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 8. This Act shall take effect on November 1, 2013.

(Approved June 25, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 187

S.B. NO. 505

A Bill for an Act Relating to Condominiums.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that mediation is an informal, inexpensive, and confidential process for resolving disputes quickly. Mediation may be particularly advantageous in a condominium setting because of the potential to preserve or to restore harmony within a condominium community.

The legislature further finds that fees paid into the condominium education trust fund come from condominium owners and developers. Dedicating a portion of the fund to support the mediation of condominium related disputes will benefit condominium owners and associations.

The purpose of this Act is to:

- (1) Add support for mediation of condominium related disputes as one of the educational purposes that shall be supported by the condominium education trust fund;
- (2) Beginning with the July 1, 2015, biennium registration, impose an additional annual condominium education trust fund fee dedicated to supporting mediation of condominium related disputes and specify the total fee into the condominium education trust fund. The additional fee shall be in addition to any fee prescribed by rules adopted by the director of commerce and consumer affairs pursuant to chapter 91, Hawaii Revised Statutes; and
- (3) Require the real estate commission to make adjustments to the condominium education trust fund to ensure adequate funds are available for mediation of condominium related disputes, and enable the commission to fully accommodate any mediation requests received prior to the commencement of the additional annual condominium education trust fund fee.

SECTION 2. Section 514B-71, Hawaii Revised Statutes, is amended to read as follows:

“[§514B-71] Condominium education trust fund. (a) The commission shall establish a condominium education trust fund that the commission [~~may~~] shall use for educational purposes. Educational purposes shall include financing or promoting:

- (1) Education and research in the field of condominium management, condominium project registration, and real estate, for the benefit of the public and those required to be registered under this chapter;
- (2) The improvement and more efficient administration of associations; [~~and~~]
- (3) Expedient and inexpensive procedures for resolving association disputes[~~;~~]; and
- (4) Support for mediation of condominium related disputes.

(b) The commission [~~may~~] shall use [~~any and~~] all moneys in the condominium education trust fund for purposes consistent with subsection (a).”

SECTION 3. Section 514B-72, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each project or association with more than five units, including any project or association with more than five units subject to chapter 514A, shall pay to the department of commerce and consumer affairs [a]:

- (1) A condominium education trust fund fee within one year after the recordation of the purchase of the first unit or within thirty days of the association’s first meeting, and thereafter, on or before June 30 of every odd-numbered year, as prescribed by rules adopted pursuant to chapter 91[-]; and
- (2) Beginning with the July 1, 2015, biennium registration, an additional annual condominium education trust fund fee in an amount equal to the product of \$1.50 times the number of condominium units included in the registered project or association to be dedicated to supporting mediation of condominium related disputes. The additional condominium education trust fund fee shall total \$3.00 per unit until the commission adopts rules pursuant to chapter 91. On June 30 of every odd-numbered year, any unexpended additional amounts paid into the condominium education trust fund and initially dedicated to supporting mediation of condominium related disputes, as required by this paragraph, shall be used for educational purposes as provided in section 514B-71(a)(1), (2), and (3).”

SECTION 4. Between the effective date of this Act and July 1, 2015, the real estate commission, pursuant to section 514B-71(a)(4), Hawaii Revised Statutes, shall continue to budget an amount and expend moneys from the condominium education trust fund specifically to support mediation of condominium related disputes utilizing professionally trained mediators for those parties and disputes specified in section 514B-161, Hawaii Revised Statutes. If a fiscal year budgeted amount for mediation is fully expended and the commission receives additional requests for condominium education trust fund subsidies for the mediation of condominium related disputes, the commission may expend the budgeted amount allocated to other educational purposes for mediation of condominium related disputes. The commission and professional vocational licensing division of the department of commerce and consumer affairs shall make adjustments, as needed, to their budgets to meet the requirements of this section.

As used in this section, “professionally trained mediators” includes retired judges and individuals who have professional mediation training which shall include appropriate knowledge of mediation procedures, ethics, standards, and responsibilities.

SECTION 5. The department of commerce and consumer affairs professional and vocational licensing division’s budget ceiling shall be amended to reflect the additional annual condominium education trust fund fee required by section 514B-72(a)(2), Hawaii Revised Statutes, and paid into the condominium education trust fund, established by section 514B-71, Hawaii Revised Statutes. On June 30 of every odd-numbered year, any unexpended additional amounts paid into the condominium education trust fund and initially dedicated to supporting mediation of condominium related disputes, as required by section 514B-72(a)(2), Hawaii Revised Statutes, shall be used for educational purposes as provided in section 514B-71(a)(1), (2), and (3), Hawaii Revised Statutes.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2013.

(Approved June 25, 2013.)

ACT 188

S.B. NO. 507

A Bill for an Act Relating to Planned Community Associations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to ensure that all members of a planned community association are able to receive notice of any regular annual meeting or special meeting of the association.

SECTION 2. Chapter 421J, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§421J- Notice required. (a) Not less than fourteen days in advance of any regular annual meeting or special meeting of an association, the secretary or other officer specified in the bylaws shall give written notice of the meeting to each member of the association as provided in the bylaws of the association or by two or more of the following means:

- (1) Hand delivery;
 - (2) United States mail sent to the mailing address of each unit or to another mailing address designated in writing by the association member;
 - (3) Electronic mail to the electronic mailing address designated in writing by the association member; or
 - (4) Posting of the meeting notice in its entirety on a portion of the association’s website that is accessible to all members.
- (b) Notice pursuant to this section shall state:
- (1) The date, time, and place of the meeting; and
 - (2) The items on the agenda, including the general nature of and rationale for any proposed amendment to the declaration or bylaws; any proposal for a special assessment, unless the authority for a special assessment is otherwise provided for in the association’s governing documents; and any proposal to remove a member of the board.

(c) The requirements of this section shall not be interpreted to preclude any association member from proposing an amendment to the declaration or bylaws or proposing to remove a member of the board at an association meeting.

(d) The requirements of this section shall not be interpreted to apply to any board meetings or committee meetings of a planned community association.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 25, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Telemedicine.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 453-1.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) ~~[Nothing]~~ Subject to section 453-2(b), nothing in this section shall preclude any physician acting within the scope of the physician’s license to practice from practicing telemedicine as defined in this section.”

SECTION 2. Section 453-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Nothing herein shall:

- (1) Apply to so-called Christian Scientists; provided that the Christian Scientists practice the religious tenets of their church without pretending a knowledge of medicine or surgery;
- (2) Prohibit service in the case of emergency or the domestic administration of family remedies;
- (3) Apply to any commissioned medical officer in the United States armed forces or public health service engaged in the discharge of one’s official duty, ~~[nor]~~ including a commissioned medical officer employed by the United States Department of Defense, while providing direct telemedicine support or services to neighbor island beneficiaries within a Hawaii national guard armory on the island of Kauai, Hawaii, Molokai, or Maui; provided that the commissioned medical officer employed by the United States Department of Defense is credentialed by Tripler Army Medical Center;
- (4) Apply to any practitioner of medicine and surgery from another state when in actual consultation, including in-person, mail, electronic, telephonic, fiber-optic, or other telemedicine consultation with a licensed physician or osteopathic physician of this State, if the physician or osteopathic physician from another state at the time of consultation is licensed to practice in the state in which the physician or osteopathic physician resides; provided that:
 - (A) The physician or osteopathic physician from another state shall not open an office, or appoint a place to meet patients in this State, or receive calls within the limits of the State for the provision of care for a patient who is located in this State;
 - (B) The licensed physician or osteopathic physician of this State retains control and remains responsible for the provision of care for the patient who is located in this State; and
 - (C) The laws and rules relating to contagious diseases are not violated;

- [4] (5) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services, or any physician assistant, when the services are rendered under the direction and control of a physician or osteopathic physician licensed in this State except for final refraction resulting in a prescription for spectacles, contact lenses, or visual training as performed by an oculist or optometrist duly licensed by the State. The direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician or osteopathic

physician. Any physician or osteopathic physician who employs or directs a person certified under part II of this chapter to provide emergency medical services, or a physician assistant, shall retain full professional and personal responsibility for any act that constitutes the practice of medicine when performed by the certified person or physician assistant;

[(5)] (6) Prohibit automated external defibrillation by:

(A) Any first responder personnel certified by the department of health to provide automated external defibrillation when it is rendered under the medical oversight of a physician or osteopathic physician licensed in this State; or

(B) Any person acting in accordance with section 663-1.5(e); or

[(6)] (7) Prohibit a radiologist duly licensed to practice medicine and provide radiology services in another state from using telemedicine while located in this State to provide radiology services to a patient who is located in the state in which the radiologist is licensed. For the purposes of this paragraph:

“Radiologist” means a doctor of medicine or a doctor of osteopathy certified in radiology by the American Board of Radiology or the American Board of Osteopathy.

“Telemedicine” means the use of telecommunications services, as that term is defined in section 269-1, including real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, such as diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, and deliver health care services and information to parties separated by distance.”

SECTION 3. Section 465-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This chapter shall not apply to:

- (1) Any person teaching, lecturing, consulting, or engaging in research in psychology insofar as the activities are performed as part of or are dependent upon employment in a college or university; provided that the person shall not engage in the practice of psychology outside the responsibilities of the person’s employment;
- (2) Any person who performs any, or any combination of the professional services defined as the practice of psychology under the direction of a licensed psychologist in accordance with rules adopted by the board; provided that the person may use the term “psychological assistant”, but shall not identify the person’s self as a psychologist or imply that the person is licensed to practice psychology;
- (3) Any person employed by a local, state, or federal government agency in a school psychologist or psychological examiner position, or a position that does not involve diagnostic or treatment services, but only at those times when that person is carrying out the functions of such government employment;
- (4) Any person who is a student of psychology, a psychological intern, or a resident in psychology preparing for the profession of psychology under supervision in a training institution or facility and who is designated by a title as “psychology trainee”, “psychology student”, “psychology intern”, or “psychology resident”, that indicates the person’s training status; provided that the person shall not identify

- the person's self as a psychologist or imply that the person is licensed to practice psychology;
- (5) Any person who is a member of another profession licensed under the laws of this jurisdiction to render or advertise services, including psychotherapy, within the scope of practice as defined in the statutes or rules regulating the person's professional practice; provided that, notwithstanding section 465-1, the person does not represent the person's self to be a psychologist or does not represent that the person is licensed to practice psychology;
 - (6) Any person who is a member of a mental health profession not requiring licensure; provided that the person functions only within the person's professional capacities; and provided further that the person does not represent the person to be a psychologist, or the person's services as psychological; [or]
 - (7) Any person who is a duly recognized member of the clergy; provided that the person functions only within the person's capacities as a member of the clergy; and provided further that the person does not represent the person to be a psychologist, or the person's services as psychological[.]; or
 - (8) Any psychologist employed by the United States Department of Defense, while engaged in the discharge of the psychologist's official duty and providing direct telehealth support or services, as defined in section 431:10A-116.3, to neighbor island beneficiaries within a Hawaii national guard armory on the island of Kauai, Hawaii, Molokai, or Maui; provided that the psychologist employed by the United States Department of Defense is credentialed by Tripler Army Medical Center."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 25, 2013.)

ACT 190

H.B. NO. 841

A Bill for an Act Relating to Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431:3-403, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) "Company action level event" means any of the following events:

- (1) The filing of a risk-based capital report by an insurer which indicates that:
 - (A) The insurer's total adjusted capital is greater than or equal to its regulatory action level risk-based capital but less than its company action level risk-based capital;
 - (B) If a life or accident and health or sickness insurer, the insurer has total adjusted capital greater than or equal to its company action level risk-based capital but less than the product of its authorized control level risk-based capital and [~~two and a half;~~] three, and has a negative trend;

- (C) If a property and casualty insurer, the insurer has a total adjusted capital greater than or equal to its company action level risk-based capital but less than the product of its authorized control level risk-based capital and three, and triggers the trend test determined in accordance with the trend test calculation included in the property and casualty risk-based capital instructions; or
- (D) If a benefit society or health maintenance organization, the benefit society or health maintenance organization has a total adjusted capital greater than or equal to its company action level risk-based capital but less than the product of its authorized control level risk-based capital and three, and triggers the trend test determined in accordance with the trend test calculation included in the health risk-based capital instructions;
- (2) The notification by the commissioner to the insurer of an adjusted risk-based capital report that indicates the occurrence of the event in paragraph (1), if the insurer does not challenge the adjusted risk-based capital report under section 431:3-407; or
- (3) If, pursuant to section 431:3-407, the insurer challenges an adjusted risk-based capital report that indicates the occurrence of the event in paragraph (1), the notification by the commissioner to the insurer that the commissioner has, after a hearing, rejected the insurer's challenge."

SECTION 2. Section 431:9A-153, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) No course shall be approved for more than ~~[twenty]~~ twenty-four credit hours."

SECTION 3. Section 431:15-103.5, Hawaii Revised Statutes, is amended to read as follows:

~~[[§431:15-103.5]]~~ Standards and authority. (a) The following standards, either singly or in a combination of two or more, may be considered by the commissioner to determine whether the continued operation of any insurer transacting insurance business in this State may be deemed to be hazardous to ~~[the]~~ its policyholders, its creditors, or the general public:

- (1) Adverse findings reported in financial condition and market conduct examination reports~~;~~, audit reports, and actuarial opinions, reports, or summaries;
- (2) The National Association of Insurance Commissioners' insurance regulatory information system and its ~~[related]~~ other financial analysis solvency tools and reports;
- ~~[(3) The ratios of commission expense, general insurance expense, policy benefits, and reserve increases as to annual premium and net investment income that could lead to an impairment of capital and surplus;~~
- ~~(4) The insurer's asset portfolio, when viewed in light of current economic conditions, is not of sufficient value, liquidity, or diversity to assure the company's ability to meet its outstanding obligations as they mature;]~~
- (3) Whether the insurer has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related ex-

penses of the insurer, when considered in light of the assets held by the insurer with respect to the reserves and related actuarial items, including the investment earnings on the assets, and the considerations anticipated to be received and retained under the policies and contracts;

- [(5)] (4) The ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the ~~[company's]~~ insurer's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;
- [(6)] (5) [The] Whether the insurer's operating loss in the last twelve-month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than fifty per cent of [such] the insurer's remaining surplus as regards policyholders in excess of the minimum required;
- (6) Whether the insurer's operating loss in the last twelve-month period or any shorter period of time, excluding net capital gains, is greater than twenty per cent of the insurer's remaining surplus as regards policyholders in excess of the minimum required;
- (7) Whether ~~[any affiliate, subsidiary, or]~~ a reinsurer, obligor, or any entity within the insurer's insurance holding company system is insolvent, threatened with insolvency, or delinquent in payment of its monetary or other obligations[;] and which in the opinion of the commissioner may affect the solvency of the insurer;
- (8) Contingent liabilities, pledges, or guaranties that, either individually or collectively, involve a total amount that, in the opinion of the commissioner, may affect the solvency of the insurer;
- (9) Whether any "controlling person" of an insurer is delinquent in the transmitting to, or payment of, net premiums to ~~[such]~~ the insurer;
- (10) The age and collectibility of receivables;
- (11) Whether management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of ~~[such]~~ the insurer, fails to possess and demonstrate the competence, fitness, and reputation deemed necessary to serve the insurer in such position;
- (12) Whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry;
- (13) Whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the commissioner;
- [(13)] (14) Whether management of an insurer either has filed any false or misleading sworn financial statement, or has released any false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer;
- [(14)] (15) Whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner; ~~[and]~~
- [(15)] (16) Whether the company has experienced, or will experience in the foreseeable future, cash flow or liquidity problems ~~[or both];~~
- (17) Whether management has established reserves that do not comply with minimum standards established by state insurance laws, regu-

lations, statutory accounting standards, sound actuarial principles, and standards of practice;

(18) Whether management persistently engages in material under reserving that results in adverse development;

(19) Whether transactions among affiliates, subsidiaries, or controlling persons for which the insurer receives assets or capital gains, or both, do not provide sufficient value, liquidity, or diversity to assure the insurer's ability to meet its outstanding obligations as they mature; and

(20) Any other finding determined by the commissioner to be hazardous to the insurer's policyholders, creditors, or the general public.

(b) For the purposes of making a determination of an insurer's financial condition under this part, the commissioner may:

(1) Disregard any credit or amount receivable resulting from transactions with a reinsurer that is insolvent, impaired, or otherwise subject to a delinquency proceeding;

(2) Make appropriate adjustments including disallowance to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates[;] consistent with the National Association of Insurance Commissioners' accounting practices and procedures manual, state laws, and rules;

(3) Refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or

(4) Increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next twelve-month period.

(c) If the commissioner determines that the continued operation of the insurer licensed to transact business in this State may be hazardous to [the] its policyholders, its creditors, or the general public, the commissioner may, upon the commissioner's determination, issue an order requiring the insurer to:

(1) Reduce the total amount of present and potential liability for policy benefits by reinsurance;

(2) Reduce, suspend, or limit the volume of business being accepted or renewed;

(3) Reduce general insurance and commission expenses by specified methods;

(4) Increase the insurer's capital and surplus;

(5) Suspend or limit the declaration and payment of dividends by an insurer to its stockholders or to its policyholders;

(6) File reports in a form acceptable to the commissioner concerning the market value of the insurer's assets;

(7) Limit or withdraw from certain investments or discontinue certain investment practices to the extent the commissioner deems necessary;

(8) Document the adequacy of premium rates in relation to the risks insured;

(9) File, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or on such forms as approved by the commissioner[-];

(10) Correct corporate governance practice deficiencies and adopt and utilize governance practices acceptable to the commissioner;

- (11) Provide a business plan to the commissioner in order to continue to transact business in the State; or
- (12) Notwithstanding any other provision of law limiting the frequency or amount of premium rate adjustments, adjust rates for any non-life insurance product written by the insurer that the commissioner considers necessary to improve the financial condition of the insurer.

If the insurer is a foreign insurer, the commissioner's order may be limited to the extent provided by statute.

(d) Any insurer subject to an order under subsection (c) may request a hearing to review that order pursuant to chapter 91."

SECTION 4. Section 431:19-102.3, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Any foreign or alien captive insurance company may become a domestic captive insurance company by meeting the following requirements:

- (1) Complying with all of the requirements relating to the organization and licensing of a domestic captive insurance company of the same type, and any requirements that the commissioner may adopt by rule;
- (2) Amending and restating its organizational documents in compliance with the laws of this State, and submitting the amended and restated organizational documents for the commissioner's review; and
- (3) Petitioning the commissioner to issue a certificate of general good, which sets forth the commissioner's finding that the redomestication and maintenance of the company will promote the general good of the State. In arriving at the finding, the commissioner shall consider the factors set forth in section 431:19-106(b). The petition shall include a nonrefundable application fee.

(b) Upon issuance of the certificate of general good by the commissioner pursuant to subsection (a)(3), the foreign or alien captive insurance company shall file the following with the department of commerce and consumer affairs:

- (1) Articles of redomestication, which shall include:
 - (A) Name of the company;
 - (B) Date and location of incorporation or organization;
 - (C) Street address of the principal office in this State;
 - (D) Names and titles of the:
 - (i) Officers and directors of the company; or
 - (ii) Members of the governing body;
 - (E) A statement that the company is moving its domicile to this State;
 - (F) A statement that redomestication will occur upon filing the articles of redomestication and that the company shall be subject to the laws of this State; and
 - (G) A statement that copies of the articles of incorporation or other organizational document and any amendments certified by the proper officer of the jurisdiction under the laws of which the company is incorporated or organized are attached; provided that if any of these documents are in a foreign language, a translation under oath of the translator shall accompany these documents;
- (2) Certificate of general good issued pursuant to subsection (a)(3);

- (3) Certificate of good standing or comparable documentation certified by the proper officer of the jurisdiction under which the foreign or alien captive insurance company is incorporated or organized; provided that:
 - (A) The certificate or documentation shall be dated not earlier than thirty days prior to the date of the certificate of general good; and
 - (B) If the certificate of good standing or documentation is in a foreign language, a translation under oath of the translator shall accompany the certificate or documentation;
 and
- (4) The company's organizational documents, which shall be amended and restated in compliance with the laws of this State~~[-and~~
- (5) ~~Nonrefundable application fee]."~~

SECTION 5. Section 431:19-115, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Sections 431:3-302 to ~~[431:3-304 and]~~ 431:3-304.5, 431:3-307~~[-]~~, 431:3-401 to 431:3-408, and 431:3-414; articles 1, 2, 4A, 5, 6, 9A, 9B, 9C, 11, 11A, and 15; and chapter 431K shall apply to risk retention captive insurance companies."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2013.

(Approved June 25, 2013.)

ACT 191

S.B. NO. 1073

A Bill for an Act Relating to Dental Service Corporations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to title 24 to be appropriately designated and to read as follows:

"CHAPTER DENTAL INSURERS

§ -1 **Definitions.** As used in this chapter:

"Capitated basis" means fixed per member per month payment or percentage of premium payment wherein the provider assumes the full risk for the cost of contracted services without regard to the type, value, or frequency of services provided. For purposes of this chapter, "capitated basis" includes the cost associated with operating staff model facilities.

"Carrier" means a dental insurer, a health maintenance organization, an insurer, a nonprofit hospital and medical service corporation, a mutual benefit society, or other entity responsible for the payment of benefits or provision of services under a group contract.

"Commissioner" means the insurance commissioner.

"Copayment" means an amount an enrollee must pay to receive a specific service which is not fully prepaid.

"Dental care services" include the practices, acts, and operations pertaining to dentistry as defined in section 448-1.

"Dental insurance plan" means insurance, as defined in section 431:1-201, for dental care services.

"Dental insurer" means any person who undertakes to provide or to arrange for or administer one or more dental insurance plans and who has met the requirements of chapter 423.

"Dental service corporation" means a corporation established pursuant to section 423-1.

"Discontinuance" means the termination of the contract between a group contract holder and a dental insurer due to the insolvency of the dental insurer, and does not refer to the termination of any agreement between any individual subscriber and a dental insurer.

"Enrollee" means an individual who is covered by a dental insurer.

"Evidence of coverage" means a statement of the essential features and services of the dental insurer coverage that is given to the subscriber by the dental insurer or by the group contract holder.

"Grievance" means a written complaint submitted in accordance with the dental insurer's formal grievance procedure by or on behalf of an enrollee regarding any aspect of the dental insurer relative to the enrollee.

"Group contract" means a contract for dental care services which by its terms limits eligibility to members of a specified group. The group contract may include coverage for dependents.

"Group contract holder" means the person to which a group contract has been issued.

"Individual contract" means a contract for dental care services issued to and covering an individual. The individual contract may include dependents of the subscriber.

"Insolvent" or "insolvency" means that the dental insurer has been declared insolvent and placed under an order of supervision, rehabilitation, or liquidation by the commissioner or a court of competent jurisdiction.

"Net worth" means the excess of total assets over total liabilities; provided that, liabilities shall not include fully subordinated debt.

"Participating provider" means a provider as defined in this section, who, under an express or implied contract with the dental insurer or with its contractor or subcontractor, has agreed to provide dental care services to enrollees with an expectation of receiving payment, other than copayment or deductible, directly or indirectly from the dental insurer.

"Person" has the same meaning as in section 431:1-212.

"Provider" means any person licensed to practice dentistry as defined in section 448-1.

"Replacement coverage" means the benefits provided by a succeeding carrier.

"Subscriber" means an individual whose employment or other status, except family dependency, is the basis for eligibility for enrollment in the dental insurer, or in the case of an individual contract, the person in whose name the contract is issued.

"Uncovered expenditures" means the costs to the dental insurer for dental care services that are the obligation of the dental insurer, for which an enrollee may also be liable in the event of the dental insurer's insolvency, and for which no alternative arrangements have been made that are acceptable to the commissioner. Uncovered expenditures shall not include expenditures for services when

a provider has agreed not to bill the enrollee even though the provider is not paid by the dental insurer, or for services that are guaranteed, insured, or assumed by a person or organization other than the dental insurer.

§ -2 Establishment of a dental insurer; certificate of authority. (a) Any person may apply to the commissioner for a certificate of authority to establish and operate a dental insurer in compliance with this chapter and chapter 423. No person shall establish or operate a dental insurer in this State without meeting the requirements of chapter 423 and obtaining a certificate of authority under this chapter. A foreign corporation may qualify under this chapter, subject to its registration to do business in this State in compliance with all provisions of this chapter and other applicable state laws, including chapter 423.

(b) Any dental service corporation formed and operating pursuant to chapter 423 as of July 1, 2013, shall submit an application for a certificate of authority under subsection (c) within ninety days of July 1, 2013. The applicant may continue to operate until the commissioner acts upon the application. In the event that an application made pursuant to this subsection is denied, the applicant shall thereafter be treated as a dental service corporation whose charter of incorporation has been revoked.

(c) Each application for a certificate of authority shall be verified by an officer or authorized representative of the applicant, shall be in a form prescribed by the commissioner, and shall set forth or be accompanied by the following:

- (1) A copy of the organizational documents of the applicant, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments thereto;
- (2) A copy of the bylaws, rules and regulations, or similar document, if any, regulating the conduct of the internal affairs of the applicant;
- (3) A list of the names, addresses, official positions, and biographical information on forms acceptable to the commissioner of the persons who are to be responsible for the conduct of the affairs and day-to-day operations of the applicant, including all members of the board of directors, board of trustees, executive committee or other governing board or committee, and the principal officers in the case of a corporation, or the partners or members in the case of a partnership or association;
- (4) A copy of any contract form made or to be made between any class of providers and the applicant and a copy of any contract made or to be made between third party administrators, marketing consultants, or persons listed in paragraph (3) and the applicant;
- (5) A copy of the form of evidence of coverage to be issued to the enrollees;
- (6) A copy of the form of group contract, if any, which is to be issued to employers, unions, trustees, or other organizations;
- (7) Financial statements showing the applicant's assets, liabilities, and sources of financial support, and both a copy of the applicant's most recent audited financial statement and an unaudited current financial statement;
- (8) A financial feasibility plan which includes detailed enrollment projections, the methodology for determining premium rates to be charged during the first twelve months of operations certified by an actuary or other qualified person, a projection of balance sheets, cash flow statements showing any capital expenditures, purchase and sale of investments, deposits with the State, income and expense

statements anticipated from the start of operations until the organization has had net income for at least one year, and a statement as to the sources of working capital as well as any other sources of funding;

- (9) A power of attorney duly executed by the applicant, if not domiciled in this State, appointing the commissioner and the commissioner's successors in office, and duly authorized deputies, as the true and lawful attorney of the applicant in and for this State upon whom all lawful process in any legal action or proceeding against the applicant on a cause of action arising in this State may be served;
- (10) A statement or map reasonably describing the geographic area or areas to be served;
- (11) A description of the internal grievance procedures to be utilized for the investigation and resolution of enrollee complaints and grievances;
- (12) A description of the proposed quality assurance program, including the formal organizational structure, methods for developing criteria, procedures for comprehensive evaluation of the quality of care rendered to enrollees, and processes to initiate corrective action and reevaluation when deficiencies in provider or organizational performance are identified;
- (13) A description of the procedures to be implemented to meet the protection against insolvency requirements in section -6;
- (14) A list of the names, addresses, and license numbers of all providers or groups of providers with which the applicant has agreements; and
- (15) Such other information as the commissioner may require.

(d) If the commissioner finds that the applicant has met the requirements for and is fully entitled thereto under the applicable insurance laws, the commissioner shall issue an appropriate certificate of authority to the applicant. If the commissioner does not so find, the commissioner shall deny the applicant the certificate of authority within a reasonable length of time following filing of the completed application by the applicant. A certificate of authority shall be denied only after the commissioner complies with the requirements of section -13.

(e) The commissioner may adopt rules under chapter 91 for the implementation and administration of this chapter.

§ -3 Fiduciary responsibilities. (a) Any director, officer, employee, or partner of a dental insurer who receives, collects, disburses, or invests funds in connection with the activities of an organization shall be responsible for the funds in a fiduciary relationship to the organization.

(b) A dental insurer shall maintain in force a fidelity bond or fidelity insurance on employees, officers, directors, and partners subject to subsection (a) in an amount not less than \$250,000 for each dental insurer or a maximum of \$5,000,000 in aggregate maintained on behalf of dental insurers owned by a common parent corporation, or a sum as may be prescribed by the commissioner.

§ -4 Annual reports. (a) Each dental insurer shall file with the commissioner:

- (1) An audit, by an independent certified public accountant or an accounting firm designated by the dental insurer of the financial statements, reporting the financial condition and results of operations of the dental insurer, annually on or before June 1, or a later date as

the commissioner upon request or for cause may specify. The dental insurer, on an annual basis and prior to the commencement of the audit, shall notify the commissioner in writing of the name and address of the person or firm retained to conduct the annual audit. The commissioner may disapprove the dental insurer's designation within fifteen days of receipt of the dental insurer's notice, and the dental insurer shall be required to designate another independent certified public accountant or accounting firm;

- (2) A list of the providers who have executed a contract that complies with section -6(d), annually on or before March 1; and
- (3) A description of the available grievance procedures, the total number of grievances handled through those procedures, a compilation of the causes underlying those grievances, and a summary of the final disposition of those grievances, annually on or before March 1.
- (b) The commissioner may require additional reports as are deemed necessary and appropriate to enable the commissioner to carry out the commissioner's duties under this chapter.

(c) Any dental insurer failing or refusing to submit any of the documents required under this section shall be liable for a penalty in an amount not less than \$100 and not more than \$500 for each day of delinquency. Penalties collected pursuant to this section shall be deposited into the compliance resolution fund.

§ -5 Information to subscribers. (a) The dental insurer shall provide to its subscribers a list of providers and participating providers, upon enrollment and reenrollment.

(b) Every dental insurer shall provide to its subscribers notice of any material change in the operation of the organization that will affect them directly within thirty days of the material change.

(c) The dental insurer shall provide to subscribers information on how dental care services may be obtained, where additional information on access to dental care services may be obtained, a description of the internal grievance procedures, and a telephone number for a subscriber to contact the dental insurer at no cost to the subscriber.

(d) For the purpose of this section, "material change" means any major change in provider or participating provider agreements.

§ -6 Protection against insolvency; net solvency report. (a) Net worth requirements are as follows:

- (1) Before issuing any certificate of authority, the commissioner shall require that the dental insurer has an initial net worth of \$2,000,000 and shall thereafter maintain the minimum net worth required under paragraph (2);
- (2) Except as provided in paragraphs (3) and (4), every dental insurer shall maintain a minimum net worth equal to the greater of:
 - (A) \$2,000,000;
 - (B) Two per cent of annual premium revenues as reported on the most recent annual financial statement filed with the commissioner on the first \$150,000,000 of premium revenues and one per cent of annual premium revenues on the premium revenues in excess of \$150,000,000;
 - (C) An amount equal to the sum of three months uncovered dental care expenditures as reported on the most recent financial statement filed with the commissioner; or

- (D) An amount equal to eight per cent of annual dental care expenditures except those paid on a capitated basis as reported on the most recent financial statement filed with the commissioner;
- (3) The minimum net worth requirement set forth in paragraph (2)(A) shall be phased in as follows:
 - (A) Seventy-five per cent of the required amount by January 1, 2016; and
 - (B) One hundred per cent of the required amount by December 31, 2017; and
- (4) The following shall apply in determining compliance with the requirements of this subsection:
 - (A) In determining net worth, no debt shall be considered fully subordinated unless the subordination clause is in a form acceptable to the commissioner. Any interest obligation relating to the repayment of any subordinated debt shall be similarly subordinated;
 - (B) The interest expenses relating to the repayment of any fully subordinated debt shall be considered covered expenses; and
 - (C) Any debt incurred by a note meeting the requirements of this section, and otherwise acceptable to the commissioner, shall not be considered a liability and shall be recorded as equity.
- (b) Deposit requirements are as follows:
 - (1) Unless otherwise provided in this subsection, each dental insurer shall deposit with the commissioner or, at the discretion of the commissioner, with any organization or trustee acceptable to the commissioner through which a custodial or controlled account is utilized, cash, securities, or any combination of these or other measures that are acceptable to the commissioner which at all times shall have a value of not less than \$300,000;
 - (2) A dental service corporation formed and operating pursuant to chapter 423 that is in operation on July 1, 2013, shall make a deposit equal to \$150,000. Within one year after January 1, 2014, a dental service corporation originally formed pursuant to chapter 423 that is reconstituted under this chapter and in operation on January 1, 2014, shall make an additional deposit of \$150,000 for a total of \$300,000;
 - (3) Deposits shall be an asset of the dental insurer in the determination of net worth;
 - (4) All income from deposits shall be an asset of the dental insurer. A dental insurer that has made a securities deposit may withdraw that deposit or any part thereof after making a substitute deposit of cash, securities, or any combination of these or other measures of equal amount and value. Any securities shall be approved by the commissioner before being deposited or substituted;
 - (5) The deposit shall be used to protect the interests of the dental insurer's enrollees and to assure continuation of dental care services to enrollees of a dental insurer which is in rehabilitation or conservation. The commissioner may use the deposit for administrative costs directly attributable to a receivership or liquidation. If the dental insurer is placed in receivership or liquidation, the deposit shall be an asset subject to the provisions of article 15 of chapter 431; and
 - (6) The commissioner may reduce or eliminate the deposit requirement if the dental insurer deposits with the director of finance of this State, or the commissioner, or other official body of the state or

jurisdiction of domicile of such dental insurer, for the protection of all subscribers and enrollees, wherever located, cash, acceptable securities, or surety, and delivers to the commissioner a certificate to such effect, duly authenticated by the appropriate state official holding the deposit.

(c) Every dental insurer, when determining liabilities, shall include an amount estimated in the aggregate to provide for any unearned premium and for the payment of all claims for dental care expenditures which have been incurred, whether reported or unreported, which are unpaid and for which the organization is or may be liable, and to provide for the expense of adjustment or settlement of claims. These liabilities shall be computed in accordance with rules adopted by the commissioner upon reasonable consideration of the ascertained experience and character of the dental insurer.

(d) Every contract between a dental insurer and a participating provider shall be in writing and shall set forth that in the event the dental insurer fails to pay for dental care services as set forth in the contract, the subscriber or enrollee shall not be liable to the provider for any sums owed by the dental insurer. In the event that a contract with a participating provider has not been reduced to writing as required by this subsection or that a contract fails to contain the required prohibition, the participating provider shall not collect or attempt to collect from the subscriber or enrollee sums owed by the dental insurer. No participating provider, or agent, trustee, or assignee thereof, may maintain any action at law against a subscriber or enrollee to collect sums owed by the dental insurer.

(e) The commissioner shall require that each dental insurer have a plan for handling insolvency which allows for continuation of benefits for the duration of the contract period for which premiums have been paid. In considering such a plan, the commissioner may require:

- (1) Insurance to cover the expenses to be paid for continued benefits after an insolvency;
- (2) Provisions in participating provider contracts that obligate the provider to provide dental care services for the duration of the period after the dental insurer's insolvency for which premium payment has been made;
- (3) Insolvency reserves;
- (4) Acceptable letters of credit; or
- (5) Any other arrangements acceptable to the commissioner to assure that benefits are continued as specified in this subsection.

(f) An agreement to provide dental care services between a participating provider and a dental insurer shall require that a participating provider shall give the dental insurer at least sixty days' advance notice in the event of termination.

(g) Each dental insurer shall prepare for review by the commissioner on or before the forty-fifth day of each quarter, a copy of its quarterly net solvency report verified by at least two principal officers. The commissioner may prescribe the forms on which the reports are to be prepared. Every dental insurer shall maintain a copy of its current net solvency report on the premises of its primary place of business.

(h) The commissioner may order an examination, subject to article 2 of chapter 431, to determine whether a dental insurer is in compliance with this section. Any dental insurer that fails or refuses to prepare or produce for review the quarterly net solvency report or any of the documents as required by this section shall be liable for a penalty pursuant to section -4(c).

§ -7 Uncovered expenditures insolvency deposit. (a) If, at any time, uncovered expenditures exceed ten per cent of total dental care expenditures, a dental insurer shall place with the commissioner or with any organization or trustee acceptable to the commissioner through which a custodial or controlled account is maintained, an uncovered expenditures insolvency deposit consisting of cash or securities that are acceptable to the commissioner. Such deposit shall have, at all times, a fair market value in an amount of one-hundred-twenty per cent of the dental insurer's outstanding liability for uncovered expenditures for enrollees in this State, including incurred but not reported claims, and shall be calculated as of the first day of the month and maintained for the remainder of the month. If a dental insurer is not otherwise required to file a quarterly report, it shall file a report within forty-five days of the end of the calendar quarter with information sufficient to demonstrate compliance with this section.

(b) The deposit required under this section is in addition to the deposit required under section -6 and is an asset of the dental insurer in the determination of net worth. All income from the deposits or trust accounts subject to this section shall be an asset of the dental insurer and may be withdrawn from the deposit or trust account quarterly with the approval of the commissioner.

(c) A dental insurer that has made a deposit may withdraw that deposit or any part of the deposit if:

(1) A substitute deposit of cash or securities of equal amount and value is made;

(2) The fair market value exceeds the amount of the required deposit; or

(3) The required deposit under subsection (a) is reduced or eliminated.

Deposits, substitutions, or withdrawals may be made only with the prior written approval of the commissioner.

(d) The deposit required under this section shall be held in trust and shall be used only as provided in this section. The commissioner may use the deposit of an insolvent dental insurer for administrative costs associated with administering the deposit and payment of claims of enrollees of this State for uncovered expenditures in this State. Claims for uncovered expenditures shall be paid on a pro rata basis based on assets available to pay such ultimate liability for incurred expenditures. Partial distribution may be made pending final distribution. Any amount of the deposit remaining shall be paid into the liquidation or receivership of the dental insurer.

(e) The commissioner may prescribe the time, manner, and form for filing claims under subsection (d).

(f) The commissioner may require dental insurers to file annual, quarterly, or more frequent reports as the commissioner deems necessary to demonstrate compliance with this section. The commissioner may require that the reports include liability for uncovered expenditures as well as an audit opinion.

§ -8 Reserve credit for reinsurance. Any dental insurer that takes credit for reserves on risks ceded to a reinsurer shall be subject to provisions of article 4A of chapter 431.

§ -9 Replacement coverage. (a) Any carrier providing replacement coverage with respect to group dental benefits within a period of sixty days from the date of discontinuance of a prior dental insurer contract or policy providing such dental benefits shall immediately cover all enrollees who were validly covered under the previous dental insurer contract or policy at the date of discontinuance and who would otherwise be eligible for coverage under the succeeding

carrier's contract, regardless of any provisions of the contract relating to active employment.

(b) Except to the extent benefits for the condition would have been reduced or excluded under the prior carrier's contract or policy, no provision in a succeeding carrier's contract of replacement coverage which would operate to reduce or exclude benefits on the basis that the condition giving rise to a claim for benefits preexisted the effective date of the succeeding carrier's contract shall be applied with respect to those enrollees validly covered under the prior carrier's contract or policy on the date of discontinuance.

§ -10 Powers of insurers and hospital and medical service corporations.

(a) An insurance company licensed in this State, or a hospital or medical service corporation authorized to do business in this State, either directly or through a subsidiary or affiliate, may organize and operate a dental insurer under the provisions of this chapter. Notwithstanding any other law to the contrary, any two or more insurance companies, hospital or medical service corporations, dental insurers, or subsidiaries or affiliates thereof, may jointly organize and operate a dental insurer. The business of insurance is deemed to include the providing of dental care services by a dental insurer owned or operated by an insurer or a subsidiary thereof.

(b) Notwithstanding any contrary provision of laws pertaining to insurance or hospital or medical service corporations under chapter 431, 432, or 432D, an insurer or a hospital or medical service corporation may contract with a dental insurer to provide insurance or similar protection against the cost of dental care services provided through dental insurers and to provide coverage in the event of the failure of the dental insurer to meet its obligations. The enrollees of a dental insurer constitute a group permitted under chapter 431, 432, or 432D. Among other things, under such contracts, the insurer or hospital or medical service corporation may make benefit payments to dental insurers for dental care services rendered by providers.

§ -11 Examinations. (a) The commissioner may examine the affairs of any dental insurer or of any providers with whom a dental insurer has contracts, agreements, or other arrangements as often as is reasonably necessary for the protection of the interests of the people of this State.

(b) Every dental insurer and provider shall submit its books and records for examination and in every way facilitate the completion of an examination by the commissioner. In the event a dental insurer or a provider fails to comply with the directions of the commissioner, the commissioner may examine the affiliates of the dental insurer or provider to obtain the information. For the purpose of examinations, the commissioner may administer oaths to and examine the officers and agents of the dental insurer and the principals of providers concerning their business.

(c) The cost of examinations under this section shall be assessed against the dental insurer or provider being examined and shall be remitted to the commissioner for deposit into the compliance resolution fund.

(d) In lieu of the commissioner's own examination, the commissioner may accept the report of an examination made by the commissioner or the appropriate official of another state.

§ -12 Fees. (a) The commissioner shall collect the following fees:

- (1) For filing an application for a certificate of authority or amendment thereto, \$600; and

(2) For all services subsequent to the issuance of a certificate of authority, including extension of the certificate of authority, \$400.

(b) No certificate of authority shall contain an expiration date, but all certificates of authority shall be extended from time to time in order to continue to be valid. When the commissioner issues or extends a certificate of authority, the commissioner shall determine the date prior to which the certificate of authority is next required to be extended, the extension date, and shall so notify the insurer holding the certificate of authority in writing. If the fee for extension is not paid before or on the extension date, a penalty shall be imposed in the amount of fifty per cent of the fee. If the fee and the penalty are not paid within thirty days immediately following the extension date, the commissioner may suspend the certificate of authority and shall not reinstate the certificate of authority until the fee and penalty have been paid.

(c) All fees and penalties collected pursuant to this section shall be deposited into the compliance resolution fund.

§ -13 Suspension, revocation, or denial of certificate of authority. (a) The commissioner may suspend, revoke, or refuse to extend any certificate of authority issued under this chapter and may deny any application for a certificate of authority if the commissioner finds that:

- (1) The dental insurer is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in any other information submitted under section -2, unless amendments to such submissions have been filed with and approved by the commissioner;
 - (2) The dental insurer or applicant does not provide or arrange for basic dental care services;
 - (3) The dental insurer or applicant is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;
 - (4) The dental insurer has failed to correct, within the time prescribed by subsection (b), any deficiency occurring due to the impairment of the dental insurer's prescribed minimum net worth;
 - (5) The dental insurer, applicant, or any person acting on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner;
 - (6) The dental insurer, applicant, or any person acting on its behalf fails or refuses to produce or submit any of the documents required under sections -4 and -6;
 - (7) The operation or continued operation of the dental insurer would be hazardous to its enrollees; or
 - (8) The dental insurer or applicant has otherwise failed to substantially comply with this chapter.
- (b) The following shall pertain when insufficient net worth is maintained:
- (1) Whenever the commissioner finds that the net worth maintained by any dental insurer subject to this chapter is less than the minimum net worth required, the commissioner shall give written notice to the dental insurer of the amount of the deficiency and shall require the dental insurer to:
 - (A) File with the commissioner a plan for correction of the deficiency acceptable to the commissioner; and
 - (B) Correct the deficiency within a reasonable time, not to exceed sixty days, unless an extension of time, not to exceed sixty additional days, is granted by the commissioner. A deficiency in

net worth shall be deemed an impairment. Failure to correct an impairment within the prescribed time shall be grounds for suspension or revocation of the certificate of authority or for placing the dental insurer in conservation, rehabilitation, or liquidation; and

- (2) Unless allowed by the commissioner, no dental insurer or person acting on its behalf, directly or indirectly, may renew, issue, or deliver any certificate, agreement, or contract of coverage in this State, for which a premium is charged or collected, while the dental insurer is impaired and the fact of the impairment is known to the dental insurer or person. The existence of an impairment shall not prevent the issuance or renewal of a certificate, agreement, or contract if an enrollee exercises an option granted under the plan to obtain new, renewed, or converted coverage.
- (c) A certificate of authority shall be suspended, revoked, or not extended, or an application for a certificate of authority denied, or an administrative fine imposed, only after compliance with the following requirements:
 - (1) Suspension or revocation of a certificate of authority, refusal to extend a certificate of authority, denial of an application, or imposition of an administrative fine pursuant to section 431:2-15(a) shall be by written order of the commissioner, which shall be sent to the dental insurer or applicant by certified or registered mail. The written order shall state the grounds, charges, or conduct on which suspension, revocation, refusal to extend, denial, or administrative fine is based. The insurer or applicant may request in writing a hearing pursuant to section 431:2-308; and
 - (2) If the dental insurer or applicant requests a hearing pursuant to this section, the commissioner shall issue a written notice of hearing stating a specific time for the hearing, which may not be less than twenty nor more than thirty days after mailing of the notice of hearing and a specific place for the hearing. Notice of hearing shall be delivered to the insurer or applicant by certified or registered mail.
 - (d) When the certificate of authority of a dental insurer is suspended, the dental insurer shall not, during the period of suspension, enroll any additional enrollees except newborn children or other newly acquired dependents of existing subscribers, and shall not engage in any advertising or solicitation whatsoever.
 - (e) When the certificate of authority of a dental insurer is revoked, the insurer, immediately following the effective date of the order of revocation, shall proceed to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the insurer. It shall engage in no further advertising or solicitation whatsoever. The commissioner, by written order, may permit any further operation of the insurer as the commissioner may find to be in the best interest of enrollees, to the end that enrollees will be afforded the greatest practical opportunity to obtain continuing dental care coverage.

§ -14 Summary orders and supervision. (a) Whenever the commissioner determines that the financial condition of any dental insurer is such that its continued operation might be hazardous to its enrollees, creditors, or the general public, or that it has violated any provision of this chapter, the commissioner, after notice and hearing, may order the dental insurer to take such action as may be reasonably necessary to rectify such condition or violation, including but not limited to:

- (1) Reducing the total amount of present and potential liability for benefits by reinsurance or other method acceptable to the commissioner;
- (2) Reducing the volume of new business being accepted;
- (3) Reducing expenses by specified methods;
- (4) Suspending or limiting the writing of new business for a period of time;
- (5) Increasing the dental insurer's capital and surplus by contribution; or
- (6) Taking any other steps as the commissioner may deem appropriate under the circumstances.

(b) For purposes of this section, the violation by a dental insurer of any law of this State to which the dental insurer is subject shall be deemed a violation of this chapter.

(c) The commissioner is authorized to set uniform standards and criteria for early warning that the continued operation of any dental insurer might be hazardous to its enrollees, creditors, or the general public, and to set standards for evaluating the financial condition of any dental insurer, which standards shall be consistent with the purposes expressed in subsection (a).

(d) The remedies and measures available to the commissioner under this section shall be in addition to, and not in lieu of, the remedies and measures available to the commissioner under the provisions of article 15 of chapter 431.

§ -15 Administrative fines and enforcement. (a) The commissioner, in addition to or in lieu of suspension or revocation of a certificate of authority pursuant to section -13, may levy an administrative fine upon a dental insurer in an amount not less than \$500 and not more than \$50,000. The dental insurer may request, in writing, a hearing pursuant to section -13. The order levying the fine shall specify the period within which the fine shall be fully paid, which shall not be less than thirty nor more than forty-five days from the date of the order. Upon failure to pay the fine when due, the commissioner shall revoke the insurer's certificate of authority if not already revoked, and the fine shall be recovered in a civil action brought on behalf of the commissioner. Any fine so collected shall be remitted by the commissioner to the director of finance and shall be placed to the credit of the compliance resolution fund.

(b) If the commissioner, for any reason, has cause to believe that any violation of this chapter has occurred or is threatened, the commissioner may give notice to a dental insurer and its representatives, or other persons who appear to be involved in such suspected violation, to arrange a conference with the alleged violators or their authorized representatives for the purpose of attempting to ascertain the facts relating to any suspected violation. In the event it appears that any violation has occurred or is threatened, the commissioner may attempt to arrive at an adequate and effective means of correcting or preventing the violation. Proceedings under this subsection shall not be governed by any formal procedural requirements and may be conducted in such manner as the commissioner may deem appropriate under the circumstances. However, unless consented to by the dental insurer, no order may result from a conference until the requirements of this section are satisfied.

(c) The commissioner may issue an order directing a dental insurer or a representative of a dental insurer to cease and desist from engaging in any act or practice in violation of the provisions of this chapter. Any person aggrieved by an order of the commissioner under this section may obtain judicial review of the order in the manner provided for by chapter 91.

(d) In the case of any violation of the provisions of this chapter, if the commissioner elects not to issue a cease and desist order, or in the event of non-

compliance with a cease and desist order issued pursuant to subsection (c), the commissioner may institute a proceeding to obtain injunctive or other appropriate relief in any court of competent jurisdiction.

§ -16 Statutory construction and relationship to other laws. (a) Except as provided in subsection (c) and otherwise provided in this chapter, the insurance laws shall not apply to the activities authorized and regulated under this chapter of any dental insurer granted a certificate of authority under this chapter.

(b) Solicitation of enrollees by a dental insurer granted a certificate of authority, or its representatives, shall not be construed to violate any provision of law relating to solicitation or advertising by providers.

(c) Articles 2, 2D, 13, and 15 of chapter 431, and the powers granted by those provisions to the commissioner shall apply to dental insurers, so long as the application in any particular case is in compliance with and is not preempted by applicable federal statutes and regulations.

§ -17 Acquisition of control of or merger of a dental insurer. No person may make a tender for or a request or invitation for tenders of, enter into an agreement to exchange securities for, or acquire in the open market or otherwise, any voting security of a dental insurer or enter into any other agreement if, after the consummation thereof, that person, directly or indirectly, or by conversion or by exercise of any right to acquire, would be in control of the dental insurer, and no person may enter into an agreement to merge or consolidate with or otherwise to acquire control of a dental insurer, unless, at the time any offer, request, or invitation is made or any agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved, the person has filed with the commissioner and has sent to the dental insurer information required by section 431:11-104 and the offer, request, invitation, agreement, or acquisition has been approved by the commissioner. Approval by the commissioner shall be governed by section 431:11-104(d); provided that if no action is taken by the commissioner within thirty days, the offer, request, invitation, agreement, or acquisition shall be deemed approved.

§ -18 Federally funded programs; exemption. Requirements provided in this chapter relating to mandated coverages or essential health benefits shall not be applicable to any dental insurer offering dental insurance under a federally funded program under the Social Security Act, as amended; provided that this exemption shall apply only to that part of the dental insurer's business under the federally funded program.

§ -19 Coordination of benefits. (a) Dental insurers are required to adopt provisions for coordination of benefits to avoid overinsurance and to provide for the orderly payment of claims when a person is covered by two or more group health insurance or health care plans.

(b) Provisions adopted pursuant to subsection (a) for the coordination of benefits shall be consistent with the coordination of benefits provisions that are in general use in the State for coordinating coverage between two or more group health insurance or health care plans.

§ -20 Disclosure of dental care coverage and benefits. In order to ensure that all individuals understand their dental care options and are able to make informed decisions, all dental insurers shall provide current and prospective sub-

scribers with written disclosure of coverages and benefits, including information on coverage principles and any exclusions or restrictions on coverage.

The information provided shall be current, understandable, and available prior to enrollment, and upon request after enrollment. A policy or contract provided to a subscriber which describes coverages and benefits shall be in conformance with part I of article 10 of chapter 431.

§ -21 Federal law compliance. All dental insurers shall comply with applicable federal law. The commissioner shall enforce the consumer protections and market reforms relating to insurance as set forth in the federal Patient Protection and Affordable Care Act, Public Law 111-148.”

SECTION 2. This Act shall take effect on July 1, 2013.

(Approved June 25, 2013.)

ACT 192

H.B. NO. 848

A Bill for an Act Relating to Health Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the federal Patient Protection and Affordable Care Act, P.L. 111-148 (Affordable Care Act), authorizes each state to define “small employer” for the purposes of the Affordable Care Act.

The legislature further finds that the Affordable Care Act includes or references the Public Health Service Act and the Health Insurance Portability and Accountability Act of 1996. To ensure compliance with relevant federal laws, it is necessary to specify that the definition of “small employer” in section 431:2-201.5, Hawaii Revised Statutes, applies to the Public Health Service Act, the Health Insurance Portability and Accountability Act of 1996, and all provisions of the Affordable Care Act, including but not limited to Affordable Care Act provisions governing eligibility for the small business exchange; essential health benefits; actuarial valuation; age rating; risk pool designation; risk adjustment, risk corridors, and reinsurance; and the Hawaii health connector’s web portal.

The legislature further finds that the Affordable Care Act requires states to establish their own standards for provider network adequacy. Currently, there are multiple agencies that apply network adequacy standards to health insurers. Establishing a uniform network adequacy standard for all health insurers doing business in Hawaii will assure consumers that health care provider networks and access to care will remain consistent.

The purpose of this Act is to ensure Hawaii’s insurance laws are in compliance with federal health insurance laws by:

- (1) Creating a uniform network adequacy standard to be applied to all health insurers doing business in the State; and
- (2) Clarifying the existing definition of “small employer” under section 431:2-201.5, Hawaii Revised Statutes, to ensure the definition of “small employer” is applicable to the implementation of all provisions of the Affordable Care Act in Hawaii.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER HEALTH CARE PROVIDER NETWORK ADEQUACY

§ -1 **Definitions.** As used in this chapter, unless the context otherwise requires:

“Commissioner” means the insurance commissioner of the State.

“Managed care plan” means any plan that meets the definition of managed care plan under section 432E-1.

§ -2 **Health care provider network adequacy.** (a) On or before January 1 of each calendar year, each managed care plan shall demonstrate the adequacy of its provider network to the commissioner. A provider network shall be considered adequate if it provides access to sufficient numbers and types of providers to ensure that all covered services will be accessible without unreasonable delay, after taking into consideration geography. The commissioner shall also consider any applicable federal standards on network adequacy. A certification from a national accreditation organization shall create a rebuttable presumption that the network of a managed care plan is adequate. This presumption may be rebutted by evidence submitted to, or collected by, the commissioner.

(b) A managed care plan that does not have a certification from a national accreditation organization may submit to the commissioner a plan to become accredited by a national accreditation organization within a period of two years if the managed care plan has provided sufficient evidence that its network is reasonably adequate at the time of submission of the plan. The commissioner shall also consider any applicable federal standards on network adequacy. The commissioner may extend the period of time for accreditation.

(c) The commissioner shall approve or disapprove a managed care plan’s annual filing on network adequacy. If the commissioner deems the filing incomplete, additional information and supporting documentation may be requested. A managed care plan shall have sixty days to appeal an adverse decision by the commissioner in an administrative hearing pursuant to chapter 91.

(d) To enable the commissioner to determine the network adequacy for qualified health plans to be listed with the Hawaii health connector under section 435H-, the commissioner may request that a managed care plan demonstrate the adequacy of its provider network at the time that it files its health plan benefit document with the commissioner.

(e) This section shall apply to any managed care plan qualified as a prepaid health care plan pursuant to chapter 393.”

SECTION 3. Chapter 435H, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§435H- **Network adequacy.** The commissioner shall provide the Hawaii health connector with a list of qualified health plans that meet network adequacy standards as determined by the commissioner.”

SECTION 4. Section 431:2-201.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The following definitions shall be used when applying Title 42 United States Code section 300gg, et seq.:

“Employee” means an employee who works on a full-time basis with a normal workweek of twenty hours or more.

“Group health issuer” means all persons offering health insurance coverage to any group or association, but shall not include those persons offering benefits exempted from Title I of the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, under sections 732(c) and 733(c) of Title I of the Employee Retirement Income Security Act of 1974 and sections 2747 and 2791(c) of the Public Health Service Act.

“Qualifying event” means the date of issuance of a general excise tax license, the loss of a job, a reduction in hours of work, or the exhaustion of the federal Consolidated Omnibus Budget Reconstruction Act continuation coverage that results in a loss of health care coverage.

“Self-employed individual” means a person operating the person’s own business, whether as a sole proprietorship or in any other legally recognized manner in which a person may operate the person’s own business, who has a general excise tax license for that business, and who is registered or licensed by the department of commerce and consumer affairs for that business.

“Small employer” means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who ~~employs between~~ employed an average of at least one ~~and no~~ but no more than fifty employees[-] on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year.”

SECTION 5. Section 432E-3, Hawaii Revised Statutes, is repealed.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act, upon its approval, shall take effect on July 1, 2013; provided that the amendments made to section 431:2-201.5, Hawaii Revised Statutes, by this Act shall not be repealed when that section is reenacted on July 1, 2013, by section 3 of Act 120, Session Laws of Hawaii 2008, as amended by section 14 of Act 11, Session Laws of Hawaii 2009.

(Approved June 25, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 193

H.B. NO. 999

A Bill for an Act Relating to Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431:19-111, Hawaii Revised Statutes, is amended to read as follows:

“§431:19-111 Reinsurance. (a) Any captive insurance company may provide reinsurance on risks ceded by any other insurer only upon approval of the reinsurance agreement by the commissioner.

(b) Any captive insurance company may take credit for reserves on risks ceded to a reinsurer; provided that no captive insurance company shall cede risks without the approval of the commissioner.

(c) In the case of a risk retention captive insurance company, a risk retention captive insurance company:

- (1) Shall qualify for credit for reinsurance on risks ceded to a reinsurer if the reinsurer is in compliance with article 4A; or
- (2) May qualify for credit for reinsurance on risks ceded to a reinsurer, if the reinsurer meets the reinsurance guidelines for risk retention captive insurance companies as adopted by the commissioner pursuant to chapter 91."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved June 25, 2013.)

ACT 194

S.B. NO. 345

A Bill for an Act Relating to Portable Electronics Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to amend the fees related to portable electronics insurance licenses to align with similar licensing fees in other jurisdictions.

SECTION 2. Section 431:31-107, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Each vendor licensed under this article shall pay to the commissioner a fee of [~~\$150~~] \$5,000 for the issuance of the initial portable electronics limited lines license, plus a license fee of [~~\$150~~] \$2,500 per year for the initial or renewal term. A pro rata portion of the license fee may be applied for a partial year of the initial term."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 25, 2013.)

ACT 195

H.B. NO. 1287

A Bill for an Act Relating to Personal Information.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 487J-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No business may scan the machine-readable zone of an individual's Hawaii identification card or driver's license, except for the following purposes:

- (1) To verify authenticity of the identification card or driver's license or to verify the identity of the individual if the individual pays for

- goods or services with a method other than cash, returns an item, or requests a refund or an exchange;
- (2) To verify the individual's age when providing age-restricted goods or services to the individual if ~~[there is]~~ the business has a reasonable doubt of the individual having reached ~~[eighteen years of age or older;]~~ the minimum age required for purchasing the age-restricted goods or services;
 - (3) To prevent fraud or other criminal activity if the individual returns an item or requests a refund or an exchange and the business uses a fraud prevention service company or system. Information collected by scanning an individual's Hawaii identification card or driver's license pursuant to this subsection shall be limited to the following information from the individual:
 - (A) Name;
 - (B) Address;
 - (C) Date of birth; and
 - (D) Driver's license number or identification card number;
 - (4) To establish or maintain a contractual relationship. Information collected by scanning the individual's Hawaii identification card or driver's license pursuant to this subsection shall be limited to the following information from the individual:
 - (A) Name;
 - (B) Address;
 - (C) Date of birth; and
 - (D) Driver's license number or identification card number;
 - (5) To record, retain, or transmit information as required by state or federal law;
 - (6) To transmit information to a consumer reporting agency, financial institution, or debt collector to be used as permitted by the federal Fair Credit Reporting Act, Gramm-Leach-Bliley Act, or the Fair Debt Collection Practices Act; and
 - (7) To record, retain, or transmit information by a covered entity governed by the medical privacy and security rules issued by the federal Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and ~~[Availability]~~ Accountability Act of 1996."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that on July 31, 2014, this Act shall be repealed and section 487J-6(a), Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day prior to the effective date of this Act.

(Approved June 25, 2013.)

ACT 196

H.B. NO. 21

A Bill for an Act Relating To Condominiums.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514B-146, Hawaii Revised Statutes, is amended to read as follows:

“§514B-146 Association fiscal matters; lien for assessments. (a) All sums assessed by the association but unpaid for the share of the common expenses chargeable to any unit shall constitute a lien on the unit with priority over all other liens, except:

- (1) Liens for taxes and assessments lawfully imposed by governmental authority against the unit; and
- (2) ~~[All]~~ Except as provided in subsection (g), all sums unpaid on any mortgage of record that was recorded prior to the recordation of a notice of a lien by the association, and costs and expenses including attorneys' fees provided in such mortgages;

provided that a lien recorded by an association for unpaid assessments shall expire six years from the date of recordation unless proceedings to enforce the lien are instituted prior to the expiration of the lien; provided further that the expiration of a recorded lien shall in no way affect the association's automatic lien that arises pursuant to this subsection or the declaration or bylaws. Any proceedings to enforce an association's lien for any assessment shall be instituted within six years after the assessment became due; provided that if the owner of a unit subject to a lien of the association files a petition for relief under the United States Bankruptcy Code (11 U.S.C. §101 et seq.), the period of time for instituting proceedings to enforce the association's lien shall be tolled until thirty days after the automatic stay of proceedings under section 362 of the United States Bankruptcy Code (11 U.S.C. §362) is lifted.

The lien of the association may be foreclosed by action or by nonjudicial or power of sale foreclosure procedures set forth in chapter 667, by the managing agent or board, acting on behalf of the association and in the name of the association; provided that no association may exercise the nonjudicial or power of sale remedies provided in chapter 667 to foreclose a lien against any unit that arises solely from fines, penalties, legal fees, or late fees, and the foreclosure of any such lien shall be filed in court pursuant to part 1A of chapter 667.

In any such foreclosure, the unit owner shall be required to pay a reasonable rental for the unit, if so provided in the bylaws or the law, and the plaintiff in the foreclosure shall be entitled to the appointment of a receiver to collect the rental owed by the unit owner or any tenant of the unit. If the association is the plaintiff, it may request that its managing agent be appointed as receiver to collect the rent from the tenant. The managing agent or board, acting on behalf of the association and in the name of the association, unless prohibited by the declaration, may bid on the unit at foreclosure sale, and acquire and hold, lease, mortgage, and convey the unit. Action to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the unpaid common expenses owed.

(b) Except as provided in subsection (g), when the mortgagee of a mortgage of record or other purchaser of a unit obtains title to the unit as a result of foreclosure of the mortgage, the acquirer of title and the acquirer's successors and assigns shall not be liable for the share of the common expenses or assessments by the association chargeable to the unit that became due prior to the

acquisition of title to the unit by the acquirer. The unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the unit owners, including the acquirer and the acquirer's successors and assigns. The mortgagee of record or other purchaser of the unit shall be deemed to acquire title and shall be required to pay the unit's share of common expenses and assessments beginning:

- (1) Thirty-six days after the order confirming the sale to the purchaser has been filed with the court;
- (2) Sixty days after the hearing at which the court grants the motion to confirm the sale to the purchaser;
- (3) Thirty days after the public sale in a nonjudicial power of sale foreclosure conducted pursuant to chapter 667; or
- (4) Upon the recording of the instrument of conveyance;

whichever occurs first; provided that the mortgagee of record or other purchaser of the unit shall not be deemed to acquire title under paragraph (1), (2), or (3), if transfer of title is delayed past the thirty-six days specified in paragraph (1), the sixty days specified in paragraph (2), or the thirty days specified in paragraph (3), when a person who appears at the hearing on the motion or a party to the foreclosure action requests reconsideration of the motion or order to confirm sale, objects to the form of the proposed order to confirm sale, appeals the decision of the court to grant the motion to confirm sale, or the debtor or mortgagor declares bankruptcy or is involuntarily placed into bankruptcy. In any such case, the mortgagee of record or other purchaser of the unit shall be deemed to acquire title upon recordation of the instrument of conveyance.

(c) No unit owner shall withhold any assessment claimed by the association. A unit owner who disputes the amount of an assessment may request a written statement clearly indicating:

- (1) The amount of common expenses included in the assessment, including the due date of each amount claimed;
- (2) The amount of any penalty, late fee, lien filing fee, and any other charge included in the assessment;
- (3) The amount of attorneys' fees and costs, if any, included in the assessment;
- (4) That under Hawaii law, a unit owner has no right to withhold assessments for any reason;
- (5) That a unit owner has a right to demand mediation or arbitration to resolve disputes about the amount or validity of an association's assessment, provided the unit owner immediately pays the assessment in full and keeps assessments current; and
- (6) That payment in full of the assessment does not prevent the owner from contesting the assessment or receiving a refund of amounts not owed.

Nothing in this section shall limit the rights of an owner to the protection of all fair debt collection procedures mandated under federal and state law.

(d) A unit owner who pays an association the full amount claimed by the association may file in small claims court or require the association to mediate to resolve any disputes concerning the amount or validity of the association's claim. If the unit owner and the association are unable to resolve the dispute through mediation, either party may file for arbitration under section 514B-162; provided that a unit owner may only file for arbitration if all amounts claimed by the association are paid in full on or before the date of filing. If the unit owner fails to keep all association assessments current during the arbitration, the association may ask the arbitrator to temporarily suspend the arbitration proceedings. If the unit owner pays all association assessments within thirty days

of the date of suspension, the unit owner may ask the arbitrator to recommence the arbitration proceedings. If the owner fails to pay all association assessments by the end of the thirty-day period, the association may ask the arbitrator to dismiss the arbitration proceedings. The unit owner shall be entitled to a refund of any amounts paid to the association which are not owed.

(e) In conjunction with or as an alternative to foreclosure proceedings under subsection (a), where a unit is owner-occupied, the association may authorize its managing agent or board to, after sixty days' written notice to the unit owner and to the unit's first mortgagee of the nonpayment of the unit's share of the common expenses, terminate the delinquent unit's access to the common elements and cease supplying a delinquent unit with any and all services normally supplied or paid for by the association. Any terminated services and privileges shall be restored upon payment of all delinquent assessments but need not be restored until payment in full is received.

(f) Before the board or managing agent may take the actions permitted under subsection (e), the board shall adopt a written policy providing for such actions and have the policy approved by a majority vote of the unit owners at an annual or special meeting of the association or by the written consent of a majority of the unit owners.

(g) Subject to this subsection, and subsections (h) and (i), the board may specially assess the amount of the unpaid regular monthly common assessments for common expenses against a ~~person~~ mortgagee who, in a judicial or nonjudicial power of sale foreclosure, purchases a delinquent unit; provided that[-

(1) ~~A purchaser who holds a mortgage on a delinquent unit that was recorded prior to the filing of a notice of lien by the association and who acquires the delinquent unit through a judicial or nonjudicial foreclosure proceeding, including purchasing the delinquent unit at a foreclosure auction, shall not be obligated to make, nor be liable for, payment of the special assessment as provided for under this subsection; and~~

(2) ~~A person who subsequently purchases the delinquent unit from the mortgagee referred to in paragraph (1) shall be obligated to make, and shall be liable for, payment of the special assessment provided for under this subsection; and provided further that] the mortgagee or [subsequent] other purchaser may require the association to provide at no charge a notice of the association's intent to claim lien against the delinquent unit for the amount of the special assessment, prior to the subsequent purchaser's acquisition of title to the delinquent unit. The notice shall state the amount of the special assessment, how that amount was calculated, and the legal description of the unit.~~

(h) The amount of the special assessment assessed under subsection (g) shall not exceed the total amount of unpaid regular monthly common assessments that were assessed during the six months immediately preceding the completion of the judicial or nonjudicial power of sale foreclosure.

(i) For purposes of subsections (g) and (h), the following definitions shall apply, unless the context requires otherwise:

"Completion" means:

(1) In a nonjudicial power of sale foreclosure, when the affidavit after public sale is recorded pursuant to section 667-33; and

(2) In a judicial foreclosure, when a purchaser is deemed to acquire title pursuant to subsection (b).

"Regular monthly common assessments" does not include:

- (1) Any other special assessment, except for a special assessment imposed on all units as part of a budget adopted pursuant to section 514B-148;
- (2) Late charges, fines, or penalties;
- (3) Interest assessed by the association;
- (4) Any lien arising out of the assessment; or
- (5) Any fees or costs related to the collection or enforcement of the assessment, including attorneys' fees and court costs.
- (j) The cost of a release of any lien filed pursuant to this section shall be paid by the party requesting the release.

(k) After any judicial or non-judicial foreclosure proceeding in which the association acquires title to the unit, any excess rental income received by the association from the unit shall be paid to existing lien holders based on the priority of lien, and not on a pro rata basis, and shall be applied to the benefit of the unit owner. For purposes of this subsection, excess rental income shall be any net income received by the association after a court has issued a final judgment determining the priority of a senior mortgagee and after paying, crediting, or reimbursing the association or a third party for:

- (1) The lien for delinquent assessments pursuant to subsections (a) and (b);
- (2) Any maintenance fee delinquency against the unit;
- (3) Attorney's fees and other collection costs related to the association's foreclosure of the unit; or
- (4) Any costs incurred by the association for the rental, repair, maintenance, or rehabilitation of the unit while the association is in possession of the unit including monthly association maintenance fees, management fees, real estate commissions, cleaning and repair expenses for the unit, and general excise taxes paid on rental income;
provided that the lien for delinquent assessments under paragraph (1) shall be paid, credited, or reimbursed first."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 25, 2013.)

ACT 197

H.B. NO. 25

A Bill for an Act Relating to Suspension of Foreclosure Actions by Junior Lienholders.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature recognizes that once a foreclosure action is initiated in the circuit courts, all junior lienholders, including an association, are prohibited from initiating or continuing with a nonjudicial foreclosure.

During the pendency of a judicial foreclosure action in circuit court, which can take years to resolve, and prior to the appointment of a foreclosure commissioner, the property in an association can fall into a state of disrepair and negatively impact not only the neighboring properties but the community at large. In addition, the association's fiscal solvency is burdened by being unable

to collect maintenance fees from the empty and not foreclosed unit, a cost which is then shared by the other homeowners.

In order to minimize property damage and allow associations an opportunity to remain fiscally viable during a pending foreclosure, this Act allows the associations to commence or continue with a nonjudicial foreclosure even if the lender has filed for foreclosure. This Act also reserves the right of owner-occupants to require the foreclosing mortgagee to participate in the dispute resolution process in situations where an association forecloses on a unit occupied by one or more owner-occupant mortgagors for whom the unit is and has been the person's primary residence for a continuous period of not less than two hundred days immediately preceding the date on which the notice is served and the mortgagee subsequently forecloses its lien on the same property.

SECTION 2. Section 667-37, Hawaii Revised Statutes, is amended to read as follows:

"§667-37 Judicial action of foreclosure before public sale. This part shall not prohibit the foreclosing mortgagee, or any other creditor having a recorded lien on the mortgaged property before the recordation of the notice of default under section 667-23, from filing an action for the judicial foreclosure of the mortgaged property in the circuit court of the circuit where the mortgaged property is located; provided that the action is filed before the public sale is held. ~~[The power of sale foreclosure process shall be stayed during the pendency of the circuit court foreclosure action.]~~"

SECTION 3. Section 667-57, Hawaii Revised Statutes, is amended to read as follows:

"§667-57 Suspension of foreclosure actions by junior lienholders. (a) Upon initiation of a foreclosure action pursuant to part IA or part II by a foreclosing mortgagee, no junior lienholder, except for an association, shall be permitted to initiate or continue a nonjudicial foreclosure until the foreclosure initiated by the foreclosing mortgagee has been concluded by a judgment issued by a court pursuant to section 667-1.5, the recording of an affidavit after public sale pursuant to section 667-33, or the filing of an agreement under the mortgage foreclosure dispute resolution provisions of section 667-81[-]; provided that if pursuant to part IA or part VI:

(1) An association forecloses on a unit occupied by one or more mortgagors for whom the unit is and has been the person's primary residence for a continuous period of not less than two hundred days immediately preceding the date on which the notice is served; and
 (2) The mortgagee subsequently forecloses its lien on the same property, those mortgagors shall be deemed to be owner-occupants, as defined in section 667-1, for the purpose of section 667-38 and shall retain their right to require the foreclosing mortgagee to participate in the procedures established under part V, notwithstanding the association's foreclosure.

(b) Upon initiation of a foreclosure action pursuant to part II by a foreclosing mortgagee, no junior lienholder, except for an association, shall be permitted to initiate or continue a nonjudicial foreclosure during the pendency of a stay pursuant to section 667-83; provided that a junior lienholder may initiate or continue with a nonjudicial foreclosure if[-]

(4) ~~The~~ the junior lien foreclosure was initiated before the foreclosure action by the foreclosing mortgagee[-or

- (2) ~~The junior lienholder is an association and has not been provided notice of the foreclosure action, pursuant to section 667-21.5, or has not received written notification of a case opening pursuant to section 667-79.]~~

and if pursuant to part IA or part VI:

- (1) An association forecloses on a unit occupied by one or more mortgagors for whom the unit is and has been the person's primary residence for a continuous period of not less than two hundred days immediately preceding the date on which the notice is served; and
- (2) The mortgagee subsequently forecloses its lien on the same property, those mortgagors shall be deemed to be owner-occupants, as defined in section 667-1, for the purpose of section 667-38 and shall retain their right to require the foreclosing mortgagee to participate in the procedures established under part V, notwithstanding the association's foreclosure."

SECTION 4. Section 667-83, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The written notification of a case opening under section 667-79 shall operate as a stay of the foreclosure proceeding and may be recorded; provided that:

- (1) The written notification shall not act as a stay on a foreclosure proceeding by an association ~~[unless the association has been provided notice pursuant to sections 667-5.5, 667-21.5, or 667-79]; and~~
- (2) The written notification shall not act as a stay on a foreclosure proceeding for the purpose of the date by which the default must be cured pursuant to section 667-22(a)(6)."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2013.

(Approved June 25, 2013.)

ACT 198

H.B. NO. 353

A Bill for an Act Relating to Agriculture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that coffee is the fourth largest agricultural crop in the State and is a highly valued commodity in Hawaii's economy. Coffee plantations cover approximately eight thousand acres of land in the State and generate total farm revenues of approximately \$30,000,000. In addition to its value as an agricultural commodity, interest in coffee farms as part of the agricultural tourism experience is growing. According to the Hawaii agricultural statistics service, the value of the agricultural tourism industry, with one hundred and twelve farms earning income from agricultural tourism activities, was measured at \$38,800,000, in 2006. Coffee farmers participating in the agricultural tourism industry have been able to increase coffee revenues by selling directly

to visitors to their farms, thus increasing the role that coffee plays in agricultural tourism, which is a growing part of the State's economy.

The legislature also finds that, in recent years, the coffee berry borer, a small beetle that is harmful to coffee crops worldwide, has infested coffee crops in the Kona and South Kona regions. The infestation of coffee farms by the coffee berry borer threatens to dismantle Hawaii's entire coffee industry because of the nature and speed of the infestations. Currently, it is estimated that over ninety per cent of coffee farms in the Kona region are affected by the coffee berry borer, and it is likely that every farm in the region will be experiencing some degree of infestation soon. Infestations and secondary effects of infestation have drastically reduced the yield of coffee trees and adversely impacted the quantity and prices of coffee from the Kona region.

The legislature also finds that ongoing efforts to control the damage to crops are critical, now that the coffee berry borer is present in Hawaii. It can also be expected that the coffee berry borer will eventually spread to other regions and counties of Hawaii where coffee is farmed. Methods to combat the coffee berry borer are used effectively in other coffee-growing regions of the world. However, farmers in Hawaii need to be educated about these methods and how to effectively apply them. In addition, the costs of the required supplies and labor to implement these methods can be financially prohibitive for smaller coffee farms in the State.

The legislature further finds that, because of Hawaii's unique terrain and the preponderance of small-sized farms with an aging population of farmers, the existing labor-intensive methods of combating the coffee berry borer are more challenging to implement in Hawaii than in other regions of the world. For that reason, research is needed to develop new methods appropriate for Hawaii's coffee farms, including those that could reduce the cost of labor necessary to control the coffee berry borer. The legislature finds that it is essential to take immediate action to develop methods to combat the coffee berry borer and to mitigate the future impacts to other coffee-producing regions in the State.

The purpose of this Act is to appropriate funds for the control and containment of the damage caused by the coffee berry borer and for research to develop new methods of preventing and treating infestations.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 for the department of agriculture to research and develop methods for the prevention and treatment of coffee berry borer infestations; provided that no funds shall be expended unless matched on a dollar-for-dollar basis from either private or other government sources.

The sums appropriated shall be expended by the department of agriculture for the purposes of this section.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the department of agriculture to fund efforts to control and mitigate the damage from the coffee berry borer infestation in Hawaii; provided that no funds shall be expended unless matched on a dollar-for-dollar basis from either private or other government sources.

The sum appropriated shall be expended by the department of agriculture for the purposes of this section.

SECTION 4. This Act shall take effect on July 1, 2013.

(Approved June 26, 2013.)

A Bill for an Act Relating to Irrigation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Reliable irrigation systems are the lifelines of Hawaii's agricultural industry. To ensure that Hawaii's agricultural crops receive a steady and dependable supply of water, sufficient funding is needed to maintain and improve Hawaii's irrigation systems. Increasing and extended water droughts have highlighted the need for the repair and maintenance of the irrigation systems in the State.

The purpose of this Act is to appropriate funds for improvements to irrigation systems throughout the State.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$120,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the purpose of making improvements to the following irrigation systems:

1. East Kauai irrigation system.
Total funding \$75,000
2. Peekauai Ditch irrigation system,
also known as Menehune Ditch,
and all appurtenances thereto.
Total funding \$45,000

The sums appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved June 26, 2013.)

A Bill for an Act Relating to Agriculture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The cost of feed for livestock production in Hawaii can constitute up to seventy per cent of total production costs, whereas feed costs for mainland producers amount to nearly fifty per cent of total production costs. In 2007, there were five dairies and six egg farms of significant size in Hawaii, with combined gross annual revenues of \$26,400,000. Currently, there are only two dairies and four egg farms of significant size, with combined gross annual revenues of \$16,250,000. Since 2007, two dairies and four egg farms have gone out of business, primarily due to the rising cost of feed for livestock animals and the resulting increases in production costs. Since October 2010, the cost of poultry feed alone has increased approximately \$60 per ton and is expected to rise even further.

Currently, one dairy and the four remaining egg farms are threatened by closure. The closures heighten the State's dependence on imported foods and threaten the State's food security and ability to achieve adequate levels of agricultural self-sufficiency. Self-sufficiency is critical to Hawaii's food security and

its ability to respond effectively in the event of natural disasters or disruptions in transportation.

The closure of local dairies and poultry farms also means that children and adults throughout the State will no longer have the option of selecting fresh, locally produced milk and eggs. Consumers have often expressed interest in obtaining locally produced milk but, unfortunately, the dairies do not produce enough milk to meet consumer demand. The public has expressed a similar interest in island-fresh beef, pork, sheep, lamb, chicken, eggs, and seafood.

Locally produced fresh beef, milk, pork, lamb, chicken, eggs, and seafood provide essential nutrition to consumers. Transport times from offshore farms to Hawaii consumers create a greater risk of food spoilage and resultant food-borne illnesses due to the highly perishable nature of these products. Without these local agricultural businesses, all beef, milk, pork, lamb, chicken, and eggs would have to be imported into the State, requiring up to ten days of shipping before being sold to consumers. This increased shipping time reduces the expected shelf life of fresh milk and eggs in particular.

The purpose of this Act is to provide funds to allow qualified beef cattle, dairy, hog, poultry, goat, sheep, fish, and crustacean farms to apply for and receive a reimbursement for a percentage of each farm's feed expenses. With financial support, the livestock industry will be able to continue to make investments in modern equipment, expand and improve herds and flocks, and develop new markets and products. This financial support will serve a public purpose by enabling the livestock industry to stabilize its operations, thereby contributing to food security and increasing the competitiveness of the local livestock industry with mainland suppliers.

SECTION 2. Section 155D-1, Hawaii Revised Statutes, is amended by amending the definitions of "milk" and "qualified producer" to read as follows:

"Milk" means the lacteal secretion, practically free from colostrums, obtained by the milking of healthy cows or goats normally produced or marketed through the channels of the fluid milk trade[-] or for further processing into milk products.

"Qualified producer" means any person that at the time of application for and disbursement of funds under this chapter is in the business of producing:

- (1) Milk from a herd, located in Hawaii, of not less than ~~[three hundred fifty]~~ ten cows[-] or twenty-five lactating milking goats;
- (2) Poultry products from a flock, raised and located in Hawaii, of not less than ~~[three thousand]~~ thirty birds;
- (3) Pork from a herd, raised and located in Hawaii, of not less than ~~[fifty]~~ ten sows; ~~[or]~~
- (4) Beef[-] that is grown, slaughtered, processed, and marketed in Hawaii. Producers who finish at least ~~[one hundred]~~ twenty head of beef cattle annually shall be eligible for this program[-];
- (5) Sheep, lambs, or goats that are grown, slaughtered, processed, and marketed in Hawaii, with current annual sales of not fewer than thirty sheep, lambs, or goats; or
- (6) Fish or crustaceans, farmed by aquacultural practices, with current annual sales of not less than two thousand pounds."

SECTION 3. Section 155D-2, Hawaii Revised Statutes, is amended to read as follows:

"[§155D-2] Grants[-]; qualified producer. (a) Applications for grants by qualified producers shall be submitted ~~[on]~~ a form furnished by the depart-

ment and shall be filed with accompanying documentation of animal feed costs; provided that:

- (1) The applicant shall comply with applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, sexual orientation, or disability;
- (2) The applicant shall have applied for or received all applicable licenses or permits;
- (3) The applicant shall indemnify and hold harmless the State and its officers, agents, and employees from all claims arising out of or resulting from the feed purchased;
- (4) The subsidy shall not be allowed within a fiscal quarter if the flock or herd size or, in the case of fish or crustaceans, sale weight, falls five per cent or more below the required minimum of:
 - (A) ~~Three thousand~~ Thirty birds;
 - (B) ~~Three hundred fifty~~ Ten cows;
 - (C) ~~Fifty~~ Ten sows in any two months of the applicable fiscal quarter; ~~or~~
 - (D) ~~One hundred~~ Twenty finished beef cattle annually;
 - (E) Twenty-five lactating milking goats;
 - (F) Thirty sheep, lambs, or goats raised for meat annually; or
 - (G) Sales of five hundred pounds of fish or crustaceans in the applicable fiscal quarter; and
- ~~(5) The grant shall not exceed a total of \$250,000 per qualified producer per year; and~~
- ~~(6)~~ (5) The department may request an applicant to provide necessary information for the purposes of verifying flock or herd size or sale weight, as applicable, and feed purchases.
- (b) Documentation of animal feed costs, as requested by the department, shall be filed for feed purchased within the immediate preceding fiscal quarter of filing and shall be effective for feed costs incurred after July 1, 2007 2013.
- (c) The applicant shall submit a quarterly financial statement of farm revenues and expenses along with other supporting documents as deemed necessary by the department, and filed with the documentation of the feed costs. An annual financial statement shall be filed with the department within ninety days following the close of the business' fiscal year after June 28, ~~2007~~ 2013, for final reconciliation of any reimbursement paid during the previous three quarters within the fiscal year. The financial statements shall be certified as accurate by the applicant and the preparer of the financial statement on forms prepared by the department.
- (d) Funds shall be disbursed upon approval by the department to the qualifying producer for up to:
 - (1) Sixty per cent of the feed costs incurred for production of poultry products;
 - (2) Forty per cent of the feed costs incurred for milk production;
 - (3) Fifty per cent of the feed costs incurred for pigs raised in Hawaii and slaughtered for local consumption; ~~or~~
 - (4) Fifty per cent of the feed costs for beef cattle raised in Hawaii and slaughtered in Hawaii for local consumption~~[-];~~
 - (5) Fifty per cent of the feed costs for sheep, lambs, and goats raised in Hawaii and slaughtered in Hawaii for local consumption; or
 - (6) Fifty per cent of the feed costs for fish or crustaceans raised in Hawaii and processed for local consumption.

(e) Feed costs shall be limited to only the feed fed to the qualifying flock ~~[or]~~, herd, fish, or crustaceans and shall not include the feed purchases for resale or gift, or the cost of transportation to Hawaii. In no case shall costs be reimbursed to a qualified producer when, after evaluation and verification by the department, the department determines that the amount of reimbursement will result in an annual profit of more than:

- (1) Twelve per cent for milk producers;
- (2) Eight per cent for poultry producers;
- (3) Eight per cent for pork producers; ~~[or]~~
- (4) Eight per cent for beef producers~~[-];~~
- (5) Eight per cent for sheep, lamb, or goat meat producers; or
- (6) Eight per cent for seafood producers.

(f) The department shall aggregate the total grant claims pursuant to this section and divide and distribute the available grant funds on a pro rata basis."

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,500,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the agricultural development division of the department of agriculture to:

- (1) Reimburse qualified producers of milk, pork, eggs, poultry, beef, lamb, goats, and seafood, for the cost of feed for beef cattle, dairy cows or milking goats, goats raised for meat, sheep, hogs, fish, crustaceans, and poultry; and
- (2) Provide funding for the administrative costs of the livestock revitalization program.

SECTION 5. The appropriation made for the purpose authorized under section 4 shall not lapse at the end of the fiscal year for which the appropriations are made; provided that any balance of any appropriation that is not encumbered as of June 30, 2016, shall lapse as of that date.

The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2013.

(Approved June 26, 2013.)

ACT 201

S.B. NO. 993

A Bill for an Act Relating to Agricultural Loans.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Financial resources are not readily available to those new to farming or those who would like to experiment with new crops or techniques. Lack of capital oftentimes weighs heavily when deciding whether or not to choose or continue in farming as a career.

With the average age of the farm operator in Hawaii being fifty-nine years old, there is a need to encourage the younger generations to take over existing farms or start their own farms. Capital is also needed for farmers to be able to

test new techniques and new crops in order to make their operations run more efficiently and thus be better able to survive foreign and mainland competition.

The purpose of this Act is to establish enhancements in the agricultural loan program to address these issues and provide incentives to enter into and to continue farming by:

- (1) Expanding eligibility for the new farmer loan to include graduates of farm trainee programs;
- (2) Amending eligibility criteria for the new farmer loan program to provide incentives for graduates of farm trainee programs and recent recipients of a college degree in agriculture; and
- (3) Amending the purpose of the new farmer loan to include farm innovation loans for farmers to perform practical research in farming.

SECTION 2. Section 155-1, Hawaii Revised Statutes, is amended by amending the definition of "new farmer program" to read as follows:

"New farmer [program]" means a new farm enterprise [for qualified new farmers;] or a person, who by reason of ability, experience, and training [are], is likely to successfully operate a farm and who otherwise [meet] meets the eligibility requirements of section 155-10 and includes any of the following:

- (1) Persons displaced from employment in an agricultural production enterprise;
- (2) College graduates in agriculture;
- (3) Community college graduates in agriculture;
- (4) Members of the Hawaii Young Farmer Association and National FFA Organization graduates with farming projects;
- (5) Persons who have not less than two years' experience as part-time farmers;
- (6) Graduates from farm trainee programs designed to provide interns with the necessary hands on skills and management training to successfully operate their own farm;
- ~~(6)~~ (7) Persons who have been farm tenants or farm laborers; or
- ~~(7)~~ (8) Other individuals who have for the two years last preceding their application [have] obtained the major portion of their income from farming operations."

SECTION 3. Section 155-3, Hawaii Revised Statutes, is amended to read as follows:

"§155-3 Restriction. Loans ~~[provided for]~~ authorized by this chapter shall require two credit denials, except for class "F" loans for new farmer and farm innovation programs, which shall require one credit denial. This requirement shall be waived for new farmer loans for \$100,000 or less for farm trainees and recent college graduates with a degree in agriculture. This requirement may also be waived by the board of agriculture for emergency loans. Credit denials may be accepted from any of the following:

- (1) Private lenders;
- (2) Members of the farm credit system; or
- (3) The United States Department of Agriculture."

SECTION 4. Section 155-9, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) Class F: [Loans for new farmer programs shall provide for costs of a new farm enterprise for qualified new farmers;] New farmer and farm innovation loan programs shall provide for:

- (1) ~~[Initial]~~ New farmer loans made under this class shall be for purposes and in accordance with the terms specified in class "A" and "C" only, and shall be made only for full-time farming. The loans shall be made for an amount not to exceed \$250,000 or eighty-five per cent of the cost of the project, whichever is less[;]. Farm trainees and recent graduates with a degree in agriculture with smaller projects requiring loans of \$100,000 or less shall have a minimum five per cent equity contribution towards the cost of the project;
- (2) Farm innovation loans made under this class shall be for qualified farmers to perform practical research in crop development, innovative production techniques, new technologies, and production of new crops that are not typically grown in the State. Farm innovation loans shall be limited to a maximum of \$75,000;
- ~~[(2)]~~ (3) Any subsequent loan shall be made from classes "A" to "D", respectively, depending upon the purpose for which the loan funds are used; and
- ~~[(3)]~~ (4) Borrowers shall comply with special term loan agreements as may be required by the department and shall take special training courses as the department deems necessary."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2013.

(Approved June 26, 2013.)

ACT 202

H.B. NO. 560

A Bill for an Act Relating to Affordable Housing Urban Gardening.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the long-term sustainability of the State depends upon improved uses of land that has already been developed. The legislature also finds that agricultural growth in urban areas contributes significantly to urban sustainability by providing locally-produced agricultural goods, as well as improving the landscape of these areas.

The purpose of this Act is to authorize the Hawaii housing finance and development corporation and the Hawaii community development authority to develop programs that provide incentives for the development of housing projects that incorporate urban gardening programs.

SECTION 2. Chapter 201H, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§201H- Urban gardening programs. Notwithstanding any other provision of law, the corporation may develop programs that provide incentives for the development of housing projects that incorporate urban gardening programs; provided that the college of tropical agriculture and human resources of the University of Hawaii at Manoa shall be consulted regarding best practices in urban gardening, including vertical gardening, aquaponics, and community gardening."

SECTION 3. Chapter 206E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§206E- Urban gardening programs. Notwithstanding any other provision of law, the authority may develop programs that provide incentives for the development of housing projects that incorporate urban gardening programs; provided that the college of tropical agriculture and human resources of the University of Hawaii at Manoa shall be consulted regarding best practices in urban gardening, including vertical gardening, aquaponics, and community gardening.”

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved June 26, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 203

S.B. NO. 586

A Bill for an Act Relating to Agricultural Building Permits.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that compliance with existing building codes and permitting processes negatively impacts the State's agriculture and aquaculture industries by adding significant time and costs to farming and ranching enterprises for such fundamental activities as constructing or installing greenhouses, shade houses, storage containers, indigenous Hawaiian hale, and many other agricultural and aquacultural buildings and structures, which, by their nature or location, pose little risk to life or property. In contrast to building codes in many other states, county building codes in Hawaii generally do not distinguish between low-risk agricultural structures and residential or commercial buildings. Ultimately, this results in excessive costs for code compliance for farmers and ranchers. While Act 114, Session Laws of Hawaii 2012, may help to reduce the cost and time spent applying for building permits for specified nonresidential agricultural and aquacultural buildings and structures and their appurtenances, Act 114 did not offer relief from county building code requirements, which in turn have prevented Hawaii's farms from realizing their full potential to meet the State's food sustainability goals.

The purpose of this Act is to encourage and support the Governor's "New Day" initiative for diversified agriculture and agricultural self-sufficiency in the State by providing, under certain circumstances, an exemption from building code requirements and expanding existing building permit exemptions for nonresidential buildings or structures on farms and ranches located outside the urban district.

SECTION 2. Section 46-88, Hawaii Revised Statutes, is amended to read as follows:

“[§46-88] Agricultural [and aquacultural] buildings and structures; [no building permit required.] exemptions from building permit and building code requirements. (a) [Each county shall establish an agricultural buildings and structures exemption list of buildings and structures that are exempt from existing building permit requirements. The list shall be established by each county no later than January 1, 2013. Agricultural buildings, structures, or appurtenances thereto, which are not used as dwelling or lodging units, may be exempted from existing building permit requirements where they are no more than 1,000 square feet in floor area; provided that the aggregate floor area of the exempted agricultural building, structure, or appurtenance thereto shall not exceed 5,000 square feet per zoning lot and the minimum horizontal separation between each agricultural building, structure, or appurtenance thereto is fifteen feet, and the agricultural buildings, structures, or appurtenances thereto are located on a commercial farm or ranch and are used for general agricultural or aquacultural operations, or for purposes incidental to such operations; provided further that:

- (1) The agricultural building, structure, or appurtenance thereto is constructed or installed on property that is used primarily for agricultural or aquacultural operations, and is two or more contiguous acres in area or one or more contiguous acres in area if located in a nonresidential agricultural or aquacultural park;
- (2) Upon completion of construction or installation, the owner or occupier shall provide written notice to the appropriate county fire department and county building permitting agency of the size, type, and locations of the building, structure, or appurtenance thereto. Such written notification shall be provided to the county agencies within thirty days of the completion of the building, structure, or appurtenance thereto. Failure to provide such written notice may void the building permit exemption, which voidance for such failure is subject to the sole discretion of the appropriate county building permitting agency;
- (3) No electrical power and no plumbing systems shall be connected to the building or structure without first obtaining the appropriate county electrical or plumbing permit, and all such installations shall be installed under the supervision of a licensed electrician or plumber, as appropriate, and inspected and approved by an appropriate county or licensed inspector; and
- (4) Disposal of wastewater from any building or structure constructed or installed pursuant to this section shall comply with chapter 342D.

(b) For purposes of subsection (a), the following buildings and structures and appurtenances thereto shall be included in each county's agricultural building and structures exemption list: **Notwithstanding any law to the contrary, the following agricultural buildings, structures, and appurtenances thereto that are not used as dwellings or lodging units are exempt from building permit and building code requirements where they are no more than one thousand square feet in floor area:**

- (1) Nonresidential manufactured pre-engineered commercial buildings and structures [consisting of no more than 1,000 square feet that have no electrical power and have no potable water, sewage, or other plumbing related services, or have such electrical or plumbing related services installed and inspected in accordance with subsection (a)(3) and (4)];
- (2) Single stand alone recycled ocean shipping or cargo containers that are used as nonresidential commercial buildings[;] **and are properly anchored;**

- (3) Notwithstanding the ~~[1,000]~~ one thousand square foot floor area restriction ~~[in subsection (a)]~~, agricultural shade cloth structures, cold frames, or greenhouses not exceeding ~~[20,000]~~ twenty thousand square feet in area per structure; provided that where multiple structures are erected, the minimum horizontal separation between each shade cloth structure, cold frame, or greenhouse is fifteen feet;
- (4) Aquacultural or aquaponics structures, including above-ground water storage or production tanks, troughs, and raceways with a maximum height of six feet above grade, and in-ground ponds and raceways, and piping systems for aeration, carbon dioxide, or fertilizer or crop protection chemical supplies within agricultural or aquacultural production facilities;
- (5) Livestock watering tanks, water piping and plumbing not connected to a source of potable water, or separated by an air gap from such a source;
- (6) Non-masonry fences not exceeding ten feet in height and masonry fences not exceeding six feet in height;
- (7) One-story masonry or wood-framed buildings or structures with a structural span of less than twenty-five feet and a total square footage of no more than ~~[1,000]~~ one thousand square feet, including farm buildings used as:
 - (A) Barns;
 - (B) Greenhouses;
 - (C) Farm production buildings including aquaculture hatcheries and plant nurseries;
 - (D) Storage buildings for farm equipment or plant or animal supplies or feed; or
 - (E) Storage or processing buildings for crops; provided that the height of any stored items shall not collectively exceed twelve feet in height ~~[and the storage of any hazardous materials shall comply with any and all applicable statutes, regulations, and codes]~~;
- (8) Raised beds containing soil, gravel, cinders, or other growing media or substrates with wood, metal, or masonry walls or supports with a maximum height of four feet; ~~[and]~~
- (9) Horticultural tables or benches no more than four feet in height supporting potted plants or other crops; and
- (10) Nonresidential indigenous Hawaiian hale that do not exceed five hundred square feet in size, have no kitchen or bathroom, and are used for traditional agricultural activities or education;

provided that the buildings, structures, and appurtenances thereto comply with all applicable state and county ~~[codes, including but not limited to applicable building, fire, health, safety, and zoning codes and are properly anchored.]~~ zoning codes.

(b) Notwithstanding the one thousand square foot floor area restriction in subsection (a), the following buildings, structures, and appurtenances thereto shall be exempt from building permit requirements when compliant with relevant building codes or county, national, or international prescriptive construction standards:

- (1) Nonresidential manufactured pre-engineered and county pre-approved commercial buildings and structures consisting of a total square footage greater than one thousand square feet but no more than eight thousand square feet; and

- (2) One-story wood-framed or masonry buildings or structures with a structural span of less than twenty-five feet and a total square footage greater than one thousand square feet but no more than eight thousand square feet constructed in accordance with county, national, or international prescriptive construction standards, including buildings used as:

- (A) Barns;
- (B) Greenhouses;
- (C) Farm production buildings, including aquaculture hatcheries and plant nurseries;
- (D) Storage buildings for farm equipment, plant or animal supplies, or feed; or
- (E) Storage or processing buildings for crops; provided that the height of any stored items shall not collectively exceed twelve feet in height.

(c) [In the event that a county fails to establish the agricultural buildings and structures exemption list within the time period as required under subsection (a), the buildings and structures specified in subsection (b) shall constitute that county's agricultural building and structures exemption list.] The exemptions in subsections (a) and (b) shall apply; provided that:

- (1) The aggregate floor area of the exempted agricultural buildings shall not exceed:
 - (A) Five thousand square feet per zoning lot for lots of two acres or less;
 - (B) Eight thousand square feet per zoning lot for lots greater than two acres but not more than five acres; and
 - (C) Eight thousand square feet plus two per cent of the acreage per zoning lot for lots greater than five acres; provided that each exempted agricultural building is compliant with the square foot area restrictions in subsection (a) or subsection (b);
- (2) The minimum horizontal separation between each agricultural building, structure, or appurtenance thereto is fifteen feet;
- (3) The agricultural buildings, structures, or appurtenances thereto are located on a commercial farm or ranch and are used for general agricultural or aquacultural operations, or for purposes incidental to such operations;
- (4) The agricultural buildings, structures, or appurtenances thereto are constructed or installed on property that is used primarily for agricultural or aquacultural operations, and is two or more contiguous acres in area or one or more contiguous acres in area if located in a nonresidential agricultural or aquacultural park;
- (5) Upon completion of construction or installation, the owner or occupier shall provide written notice to the appropriate county fire department and county building permitting agency of the size, type, and locations of the building, structure, or appurtenance thereto. Such written notification shall be provided to the county agencies within thirty days of the completion of the building, structure, or appurtenance thereto. Failure to provide such written notice may void the building permit or building code exemption, or both, which voidance for such failure is subject to the sole discretion of the appropriate county building permitting agency;
- (6) No electrical power and no plumbing systems shall be connected to the building or structure without first obtaining the appropriate county electrical or plumbing permit, and all such installations

shall be installed under the supervision of a licensed electrician or plumber, as appropriate, and inspected and approved by an appropriate county or licensed inspector or, if a county building agency is unable to issue an electrical permit because the building or structure is permit-exempt, an electrical permit shall be issued for an electrical connection to a meter on a pole beyond the permit-exempt structure in accordance with the installation, inspection, and approval requirements in this paragraph;

(7) Disposal of wastewater from any building or structure constructed or installed pursuant to this section shall comply with chapter 342D; and

(8) Permit-exempt structures shall be exempt from any certificate of occupancy requirements.

(d) As used in this section:

"Agricultural building [or aquacultural building]" means a nonresidential building or structure, built for agricultural or aquacultural purposes, located on a commercial farm or ranch constructed or installed to house farm or ranch implements, agricultural or aquacultural feeds or supplies, livestock, poultry, or other agricultural or aquacultural products, used in or necessary for the operation of the farm or ranch, or for the processing and selling of farm or ranch products.

"Agricultural operation" means the planting, cultivating, harvesting, processing, or storage of crops, including those planted, cultivated, harvested, and processed for food, ornamental, grazing, feed, or forestry purposes, as well as the feeding, breeding, management, and sale of animals including livestock, poultry, honeybees, and their products.

"Appurtenance" means an object or device in, on, or accessory to a building or structure, and which enhances or is essential to the usefulness of the building or structure, including but not limited to work benches, horticultural and floricultural growing benches, aquacultural, aquaponic, and hydroponic tanks, raceways, troughs, growbeds, and filterbeds, when situated within a structure.

"Aquacultural operation" means the propagation, cultivation, farming, harvesting, processing, and storage of aquatic plants and animals in controlled or selected environments for research, commercial, or stocking purposes and includes aquaponics or any growing of plants or animals in or with aquaculture effluents.

"Manufactured pre-engineered commercial building or structure" means a building or structure whose specifications comply with appropriate county codes, and have been pre-approved by a county or building official.

"Nonresidential building or structure" means a building or structure, including an agricultural building, that is used only for agricultural or aquacultural operations[, including an agricultural building or aquacultural building,] and is not intended for use as, or used as, a dwelling.

(e) This section shall not apply to buildings or structures otherwise exempted from building permitting or building code requirements by applicable county ordinance.

(f) This section shall not be construed to supersede public or private lease conditions.

(g) This section shall not apply to the construction or installation of any building or structure on land in an urban district.

(h) The State or any county shall not be liable for claims arising from the construction of agricultural buildings, structures, or appurtenances thereto exempt from the building code and permitting process as described in this sec-

tion, unless the claim arises out of gross negligence or intentional misconduct by the State or county.

(i) This section shall not apply to buildings or structures used to store pesticides or other hazardous material unless stored in accordance with federal and state law.

(j) Failure to comply with the conditions of this section shall result in penalties consistent with county building department provisions."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2013.

(Approved June 26, 2013.)

ACT 204

S.B. NO. 757

A Bill for an Act Relating to Agriculture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that supporting local agriculture is a strategic public investment that will build community resilience and strengthen the productive base of the economy. The current lack of young farmers and ranchers with the experience, skills, and ambition to undertake the rigorous and complex work of farming and ranching as a business poses a significant hurdle to revitalizing local agriculture. To address this problem, the legislature finds that rebuilding existing programs that educate, support, and encourage youth for agricultural careers, specifically Future Farmers of America, is a timely and efficient means of achieving community resilience and sustainability.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$75,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the implementation and operation of the Future Farmers of America to educate and support youth in agricultural careers.

The sum appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved June 26, 2013.)

ACT 205

S.B. NO. 635

A Bill for an Act Relating to Animal Cruelty.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Hawaii's existing penal code does not adequately address situations when an offender injures or kills an animal used by a law enforcement agency or corrections facility. Dogs, horses, or other animals are specifically trained to assist law enforcement in detecting criminal activity, enforcing laws, or apprehending criminal offenders. On the national level,

law enforcement trained animals are being used more frequently on a daily basis to assist law enforcement officers in the field to safely complete their daily activities, search for narcotics and explosives, and assist in search and rescue missions. Within the last twenty years, law enforcement agencies have relied on trained animals to address some of the departments' most dangerous assignments.

Although the death or injury of a law enforcement animal is not a serious problem in Hawaii yet, it has become a problem across the country. During the last forty years, one hundred thirty-nine police dogs were killed in the line of duty by firearms. In 2000, the federal government enacted the Federal Law Enforcement Animal Protection Act of 2000. This federal law recognized the need to provide legal protection to animals who work with sworn law enforcement personnel on a daily basis to keep communities safe by imposing penalties on any person who wilfully and maliciously harms any police animal or attempts or conspires to do so, permanently disables or disfigures the animal, or causes serious bodily injury to or the death of the animal. Forty-four states and one territory have laws that protect law enforcement animals that include police dogs, police horses, and fire dogs. The legislature finds that it is now time for Hawaii to join this group to protect the animals that work hard every day to keep our community safe.

The purpose of this Act is to protect law enforcement animals in the line of duty by including law enforcement animals under the offenses of causing injury or death to a service dog and intentional interference with the use of a service dog.

SECTION 2. Section 711-1109.4, Hawaii Revised Statutes, is amended to read as follows:

"§711-1109.4 Causing injury or death to a service dog[-] or law enforcement animal. (1) A person commits the offense of causing injury or death to a service dog or law enforcement animal if:

- (a) The person recklessly causes substantial bodily injury to or the death of any service dog or law enforcement animal while the service dog or law enforcement animal is in the discharge of its duties; or
- (b) The person is the owner of a dog and recklessly permits that dog to attack a service dog or law enforcement animal while the service dog or law enforcement animal is in the discharge of its duties, resulting in the substantial bodily injury or death of the service dog[-] or law enforcement animal.

(2) Subsection (1) shall not apply to:

- (a) Accepted veterinary practices;
- (b) Activities carried on for scientific research governed by standards of accepted educational or medicinal practices; or
- (c) Cropping or docking as customarily practiced and permitted by law.

~~[(2)]~~ (3) Any person who commits the offense of causing injury or death to a service dog or law enforcement animal shall be ~~[punished as follows:~~

- (a) ~~For a first offense by a fine of not more than \$2,000, imprisonment of not more than thirty days, or both; and~~
- (b) ~~For a second or subsequent offense by a fine of not more than \$5,000, imprisonment of not more than thirty days, or both.] guilty of a class C felony.~~

~~[(3) Any]~~ (4) In addition to any other penalties, any person who is convicted of a violation of this section shall be ordered to make restitution to:

- (a) The [person with a disability who has custody or ownership] owner of the service dog[-] or law enforcement animal for any veterinary

bills and out-of-pocket costs incurred as a result of the injury to the service dog~~;~~ or law enforcement animal; and

- (b) The person, entity, or organization that incurs the cost of retraining or replacing the service dog~~;~~ or law enforcement animal for the cost of retraining or replacing the service dog or law enforcement animal if it is disabled or killed.

[(4)] (5) As used in this section “service dog” shall have the same meaning as in section 347-2.5.”

SECTION 3. Section 711-1109.5, Hawaii Revised Statutes, is amended to read as follows:

“§711-1109.5 Intentional interference with the use of a service dog~~;~~ or law enforcement animal. (1) A person commits the offense of intentional interference with the use of a service dog or law enforcement animal if the person, with no legal justification, intentionally or knowingly:

- (a) ~~Harms~~ strikes, beats, kicks, cuts, stabs, shoots, or administers any type of harmful substance or poison to a service dog~~;~~ or
- (b) ~~Strikes or kicks a service dog;~~ or law enforcement animal while the service dog or law enforcement animal is in the discharge of its duties.
- (2) Subsection (1) shall not apply to:
 - (a) Accepted veterinary practices;
 - (b) Activities carried on for scientific research governed by standards or accepted educational or medicinal practices; or
 - (c) Cropping or docking as customarily practiced and permitted by law.

[(2)] (3) Intentional interference with the use of a service dog or law enforcement animal is a misdemeanor.

(4) In addition to any other penalties, any person who is convicted of a violation of this section shall be ordered to make restitution to:

- (a) The owner of the service dog or law enforcement animal for any veterinary bills and out-of-pocket costs incurred as a result of the injury to the service dog or law enforcement animal; and
- (b) The person, entity, or organization that incurs the cost of retraining or replacing the service dog or law enforcement animal for the cost of retraining or replacing the service dog or law enforcement animal, if it is disabled or killed.

[(3)] (5) Nothing in this section is intended to affect any civil remedies available for a violation of this section.

[(4)] (6) As used in this section, “service dog” shall have the same meaning as in section 347-2.5.”

SECTION 4. Section 711-1110, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Law enforcement animal” means any dog, horse, or other animal used by law enforcement or corrections agencies and trained to work in areas of tracking, suspect apprehension, victim assistance, crowd control, or drug or explosive detection for law enforcement purposes.”

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 26, 2013.)

ACT 206

S.B. NO. 328

A Bill for an Act Relating to Animals.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 521-44, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) As used in this section “security deposit” means money deposited by or for the tenant with the landlord to be held by the landlord to:

- (1) Remedy tenant defaults for accidental or intentional damages resulting from failure to comply with section 521-51, for failure to pay rent due, or for failure to return all keys furnished by the landlord at the termination of the rental agreement;
- (2) Clean the dwelling unit or have it cleaned at the termination of the rental agreement so as to place the condition of the dwelling unit in as fit a condition as that which the tenant entered into possession of the dwelling unit; ~~and~~
- (3) Compensate for damages caused by a tenant who wrongfully quits the dwelling unit~~[-]; and~~
- (4) Compensate for damages under subsection (b) caused by any pet animal allowed to reside in the premises pursuant to the rental agreement.

(b) The landlord may require, as a condition of a rental agreement, a security deposit to be paid by or for the tenant for the items in subsection (a) and no others~~[-]~~ in an amount not in excess of a sum equal to one month’s rent~~[-]~~, plus an amount agreed upon by the landlord and tenant to compensate the landlord for any damages caused by any pet animal allowed to reside in the premises pursuant to the rental agreement; provided that the additional security deposit amount for a pet animal under this subsection:

- (1) Shall not be required:
 - (A) From any tenant who does not have a pet animal that resides in the premises; or
 - (B) For an assistance animal that is a reasonable accommodation for a tenant with a disability pursuant to section 515-3; and
- (2) Shall be in an amount not in excess of a sum equal to one month’s rent.

The landlord may not require or receive from or on behalf of a tenant at the beginning of a rental agreement any money other than the money for the first month’s rent and a security deposit as provided in this section. ~~[The]~~ No part of the security deposit shall ~~not~~ be construed as payment of the last month’s rent by the tenant, unless mutually agreed upon, in writing, by the landlord and tenant if the tenant gives forty-five days’ notice of vacating the premises; in entering such agreement, the landlord shall not be deemed to have waived the right to pursue legal remedies against the tenant for any damages the tenant causes. Any such security deposit shall be held by the landlord for the tenant and the claim of the tenant to the security deposit shall be prior to the claim of any creditor of the landlord, including a trustee in bankruptcy, even if the security deposits are commingled.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that section 1 of this Act shall apply to all rental agreements entered into on or after November 1, 2013.

(Approved June 26, 2013.)

ACT 207

H.B. NO. 235

A Bill for an Act Relating to Collection of Restitution for Crime Victims.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 706-646, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) As used in this section, “victim” includes any of the following:

- (a) The direct victim of a crime including a business entity, trust, or governmental entity;
- (b) If the victim dies as a result of the crime, a surviving relative of the victim as defined in chapter 351; [øf]
- (c) A governmental entity that has reimbursed the victim for losses arising as a result of the crime or paid for medical care provided to the victim as a result of the crime[-]; or
- (d) Any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals, contracted with the county or State to enforce animal-related statutes or ordinances, that impounds, holds, or receives custody of a pet animal pursuant to section 711-1109.1, 711-1109.2, or 711-1110.5; provided that this section does not apply to costs that have already been contracted and provided for by the counties or State.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 26, 2013.)

ACT 208

S.B. NO. 6

A Bill for an Act Relating to Animal Cruelty.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that it is important to protect pet animals from cruel treatment and prevent pet animals from unnecessary or prolonged suffering. Steel-jawed leg-hold traps were originally designed to capture fur-bearing animals such as bears, fox, beavers, and other animals that are not present in Hawaii. Snares and foot- or leg-hold traps were designed to capture other non-domesticated animals.

Unfortunately, domesticated pet animals are frequent victims of snares and may also become victims of steel-jawed leg-hold, conibear, or foot- or leg-hold traps. Cases have been reported of dogs and cats found dead or severely injured after being caught in these devices, or chewing off their own limbs in an attempt to escape these devices.

The legislature further finds that existing laws and administrative rules do not prohibit or regulate the use of steel-jawed leg-hold, conibear, or foot- or leg-hold traps, or snares, all of which can be easily purchased on the Internet.

The purpose of this Act is to:

- (1) Require the reporting of dogs and cats that are captured or killed in a snare or trap;
- (2) Establish an animal cruelty offense for the use of steel-jawed leg-hold traps, and the use of snares, conibear, and foot- or leg-hold traps in residential areas;
- (3) Provide exemptions for activities carried out by state and federal agencies; and
- (4) Establish the offense as a misdemeanor.

SECTION 2. Chapter 143, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§143- Reporting of dog or cat captured or killed in snare or trap. Any dog or cat captured or killed in any steel-jawed leg-hold trap, snare, conibear trap, or foot- or leg-hold trap, as those terms are defined in section 711- , in an area zoned as residential shall immediately be checked for identification and reported to a county animal control officer and, upon request, shall be turned over to the animal control officer.”

SECTION 3. Chapter 711, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§711- Cruelty to animals by trapping. (1) A person commits the offense of cruelty to animals by trapping if the person intentionally, knowingly, or recklessly uses, sets, or maintains:

- (a) A steel-jawed leg-hold trap; or
- (b) A snare, conibear trap, or foot- or leg-hold trap in an area zoned as residential or any other area where such snare or trap is prohibited by law or rule; except under the situations described in subsection (2).

(2) Subsection (1)(b) shall not apply to employees of state or federal agencies, or persons acting as a designated cooperator or an agent of the State, who are carrying out activities required under a management plan approved by state or federal agencies, pursuant to a mandatory statutory duty for the protection of species listed as threatened or endangered species, or other wildlife species protected by law, or for the protection of public health, safety, or property.

(3) As used in this section:

“Conibear trap” means a contrivance consisting of metal or steel designed to kill by crushing the body or severing the spinal cord of any animal. “Conibear trap” shall not include snap traps used for rodent control.

“Foot- or leg-hold trap” means a contrivance consisting of metal or steel that is off-set, padded or laminated, and is designed to capture and hold any animal by a foot or limb.

“Snare” means a contrivance consisting of a noose, regardless of material, designed to capture, trap, or kill any animal or hold any animal by a foot, limb, or neck.

“Steel-jawed leg-hold trap” means a spring-powered contrivance that captures or holds the limb of an animal by exerting a lateral force with fix-mounted jaws.

(4) Cruelty to animals by trapping is a misdemeanor.”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved June 26, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 209

S.B. NO. 9

A Bill for an Act Relating to Animals.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that persons who are cruel to one animal may commit cruel acts to other animals and, as such, it is necessary to ensure that persons convicted of cruelty to animals are restricted from owning and possessing additional animals for a period of time.

Act 262, Session Laws of Hawaii 1985, relating to forfeiture of animals for cruelty to animals (enacted as section 711-1110.5, Hawaii Revised Statutes), provides in pertinent part that the court may order the defendant to surrender or forfeit the animal whose treatment was the basis of the conviction or plea, as well as any other animals under the possession, custody, or control of the defendant, to the custody of a duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals. The intent of Act 262 is to temporarily protect abused animals from further harm.

Notwithstanding Act 262, there have been numerous instances where defendants who have been convicted of a cruelty to animals offense, in some cases involving dozens of animals, have been allowed to continue to own animals and to sometimes sell the animals for profit.

More than thirty states have enacted laws to prohibit the possession of, owning of, or residing with animals upon conviction of a cruelty to animals offense.

The purpose of this Act is to prohibit any person convicted of cruelty to animals in the first degree from possessing or owning any pet animal and equine animal for a minimum of five years from the date of conviction.

SECTION 2. Section 711-1108.5, Hawaii Revised Statutes, is amended by amending subsection (5) to read as follows:

“(5) Cruelty to animals in the first degree is a class C felony. In addition to any fines and imprisonment imposed under this section, any person convicted under this section shall be prohibited from possessing or owning any pet animal or equine animal for a minimum of five years from the date of conviction.

For the purposes of this section, “person” means any individual; any firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate; or any other legal entity.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 26, 2013.)

ACT 210

S.B. NO. 978

A Bill for an Act Relating to the Penal Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 706-620, Hawaii Revised Statutes, is amended to read as follows:

“§706-620 Authority to withhold sentence of imprisonment. A defendant who has been convicted of a crime may be sentenced to a term of probation unless:

- (1) The crime is first or second degree murder or attempted first or second degree murder;
- (2) The crime is a class A felony, except class A felonies defined in chapter 712, part IV, and by section 707-702;
- (3) The defendant is a repeat offender under section 706-606.5;
- (4) The defendant is a felony firearm offender as defined in section 706-660.1(2); ~~[or]~~
- (5) The crime involved the death of or the infliction of serious or substantial bodily injury upon a child, an elder person, or a handicapped person under section 706-660.2[-]; or
- (6) The crime is cruelty to animals where ten or more pet animals were involved under section 711-1108.5 or 711-1109.”

SECTION 2. Section 711-1109, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

“(4) Cruelty to animals in the second degree is a misdemeanor[-], except where the offense involves ten or more pet animals in any one instance which is a class C felony.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 26, 2013.)

ACT 211

S.B. NO. 1087

A Bill for an Act Relating to Green Infrastructure.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that building Hawaii's clean energy infrastructure at the lowest possible cost is vital to the State's reaching its seventy per cent clean energy goal in 2030.

The legislature finds that significant investment in infrastructure installations is required to achieve the State's goals of energy self-sufficiency, greater energy security, and greater energy diversification, and to support the achievement of the renewable portfolio standards and energy efficiency portfolio standards, as established in chapter 269, Hawaii Revised Statutes. These green infrastructure investments are to support Hawaii's evolving energy market and ecosystem and to provide affordable energy options for all of Hawaii's consumers. Further, these infrastructure installations will require significant amounts of capital, and it is in the public interest to minimize these costs. A key component to minimizing costs is reducing the cost of capital required to finance infrastructure installations.

The legislature further finds that the upfront costs of green infrastructure equipment are a barrier preventing many electric utility customers from investing in these infrastructure installations. Existing programs and incentives do not serve the entire spectrum of the customer market, particularly those customers who lack access to capital or who cannot afford the large upfront costs required, thus creating an underserved market. It is in the public interest to make cost-effective green infrastructure equipment options accessible and affordable to customers in an equitable way.

A green infrastructure financing program administered by the State that capitalizes on existing ratepayer contributions for green infrastructure equipment can serve a critical role in ensuring all Hawaii electricity ratepayers receive the greatest opportunity for affordable and clean energy. The legislature further finds that the State would be best served by a State-administered green infrastructure financing program that:

- (1) Focuses on providing an alternative means of low-cost financing for green infrastructure equipment for Hawaii ratepayers, particularly those ratepayers not currently able to obtain such technology on reasonable financing terms;
- (2) Utilizes excess loan program funds as a funding source to finance additional green infrastructure installations, subject to regulatory guidelines and approval; and
- (3) Establishes clearly defined program procedures and targets that encourage effective coordination among state agencies, industry,

investors, and other critical energy industry stakeholders in order to help the State achieve its clean energy policy mandates and to provide customers affordable energy options.

The legislature further finds that the impact and reach of proven clean energy financing programs, such as on-bill financing or on-bill repayment, can be greatly enhanced through the use of low-cost capital made available through the green infrastructure financing program established by this Act.

The purpose of this Act is to establish a regulatory financing structure that authorizes the public utilities commission and the department of business, economic development, and tourism to acquire and provide alternative low-cost financing, to be deployed through a financing program to make green infrastructure installations accessible and affordable for Hawaii's consumers, achieve measurable cost savings, and achieve Hawaii's clean energy goals.

SECTION 2. Chapter 196, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . GREEN INFRASTRUCTURE LOANS

§196-A Definitions. As used in this part:

"Authority" means the Hawaii green infrastructure authority as established under section 196-C.

"Bond" means any bond, note, and other evidence of indebtedness that is issued by the State pursuant to part of chapter 269.

"Clean energy technology" means any technology as defined in section 269-121(b).

"Department" means the department of business, economic development, and tourism, or any successor by law.

"Director" means the director of business, economic development, and tourism, or the director's designee.

"Financing order" means the same as defined in section 269-A.

"Financing party" means the same as defined in section 269-A.

"Green infrastructure bond fund" means the special fund created pursuant to section 196-G.

"Green infrastructure charge" means the on-bill charges for the use and services of the loan program, including the repayment of loans made under the loan program, as authorized by the public utilities commission to be imposed on electric utility customers.

"Green infrastructure costs" means costs incurred or to be incurred by the electric utility customers to pay for clean energy technology, demand response technology, and energy use reduction and demand side management infrastructure including, without limitation, the purchase or installation of green infrastructure equipment, programs, and services authorized by the loan program.

"Green infrastructure equipment" means infrastructure improvements, equipment, and personal property to be installed to deploy clean energy technology, demand response technology, and energy use reduction and demand side management infrastructure.

"Green infrastructure fee" means the same as defined in section 269-A.

"Green infrastructure loan program order" means the same as defined in section 269-A.

"Green infrastructure property" means the same as defined in section 269-A.

"Green infrastructure special fund" means the special fund created pursuant to section 196-E.

“Loan program” and “green infrastructure loans” means the program established by this part and loans made to finance the purchase or installation of green infrastructure equipment for clean energy technology, demand response technology, and energy use reduction and demand side management infrastructure, programs, and services as authorized by the public utilities commission using the proceeds of bonds or other proceeds.

§196-B Hawaii green infrastructure loan program. There is established a Hawaii green infrastructure loan program, which shall be a loan program as defined under section 39-51. The program shall be administered by the authority on behalf of the department in a manner consistent with chapter 39, part III. This loan program may include loans made to private entities, whether corporations, partnerships, limited liability companies, or other persons, which entities may lease or provide green infrastructure equipment to electric utility customers, as well as direct loans to electric utility customers, on terms approved by the authority.

§196-C Hawaii green infrastructure authority. There is established the Hawaii green infrastructure authority as an instrumentality of the State comprising five members. The director, the director of finance, and the energy program administrator of the department shall be members of the authority. The governor shall appoint the other two members, pursuant to section 26-34. The director shall be the chairperson of the authority. The authority shall be placed within the department for administrative purposes, pursuant to section 26-35; provided that until the authority is duly constituted, the department may exercise all powers reserved to the authority and shall perform all responsibilities of the authority.

§196-D Functions, powers, and duties of the authority. (a) In the performance of, and with respect to the functions, powers, and duties vested in the authority by this part, the authority, as directed by the director and in accordance with a green infrastructure loan program order or orders under section 269-K or an annual plan submitted by the authority pursuant to this section, as approved by the public utilities commission may:

- (1) Make loans and expend funds to finance the purchase or installation of green infrastructure equipment for clean energy technology, demand response technology, and energy use reduction and demand side management infrastructure, programs, and services;
- (2) Hold and invest moneys in the green infrastructure special fund in investments as permitted by law and in accordance with approved investment guidelines established in one or more orders issued by the public utilities commission pursuant to section 269-K;
- (3) Hire employees necessary to perform its duties, including an executive director. The executive director shall be appointed by the authority, and the employees' positions, including the executive director's position, shall be exempt from chapter 76;
- (4) Enter into contracts for the service of consultants for rendering professional and technical assistance and advice, and any other contracts that are necessary and proper for the implementation of the loan program;
- (5) Enter into contracts for the administration of the loan program, without the necessity of complying with chapter 103D;

- (6) Establish loan program guidelines to be approved in one or more orders issued by the public utilities commission pursuant to section 269-K to carry out the purposes of this part;
 - (7) Be audited at least annually by a firm of independent certified public accountants selected by the authority, and provide the results of this audit to the department and the public utilities commission; and
 - (8) Perform all functions necessary to effectuate the purposes of this part.
- (b) The authority shall submit to the public utilities commission an annual plan for review and approval no later than ninety days prior to the start of each fiscal year. The annual plan submitted by the authority shall include the authority's projected operational budget for the succeeding fiscal year.

§196-E Hawaii green infrastructure special fund. (a) There is established the Hawaii green infrastructure special fund into which shall be deposited:

- (1) The proceeds of bonds net of issuance costs and reserves or overcollateralization amounts;
- (2) Green infrastructure charges received for the use and services of the loan program, including the repayment of loans made under the loan program;
- (3) All other funds received by the department or the authority and legally available for the purposes of the green infrastructure special fund;
- (4) Interest earnings on all amounts in the green infrastructure special fund; and
- (5) Such other moneys as shall be permitted by an order of the public utilities commission.

The Hawaii green infrastructure special fund shall not be subject to section 37-53. Any amounts received from green infrastructure charges or any other net proceeds earned from the allocation, use, expenditure, or other disposition of amounts approved by the public utilities commission and deposited or held in the Hawaii green infrastructure special fund in excess of amounts necessary for the purposes of subsection (b) shall be credited to electric utility customers as provided in a green infrastructure loan program order or orders. Funds that are transferred back to the electric utility in order to credit electric utility customers under this subsection shall not be considered revenue of the electric utility and shall not be subject to state or county taxes.

(b) Moneys in the Hawaii green infrastructure special fund may be used, subject to the approval of the public utilities commission, for the purposes of:

- (1) Making green infrastructure loans;
- (2) Paying administrative costs of the Hawaii green infrastructure loan program;
- (3) Paying any other costs related to the Hawaii green infrastructure loan program; or
- (4) Paying financing costs, as defined in section 269-A, to the extent permitted by the public utilities commission in a financing order issued pursuant to section 269-C.

(c) The authority may invest funds held in the Hawaii green infrastructure special fund in investments as permitted by law, and in accordance with approved investment guidelines established in one or more orders issued by the public utilities commission pursuant to section 269-K. All amounts in

the Hawaii green infrastructure special fund shall be exempt from all taxes and surcharges imposed by the State or the counties.

§196-F Use of Hawaii green infrastructure special fund; application. (a) The authority shall apply to the public utilities commission for one or more orders to effectuate the Hawaii green infrastructure loan program, pursuant to section 269-J.

Nothing herein shall preclude the department from applying for a financing order, pursuant to section 269-B, prior to the issuance of an order or orders to effectuate the Hawaii green infrastructure loan program under section 269-K, nor from requesting consolidation of the proceeding for a financing order with such a loan program implementation order.

(b) An application shall be submitted by the authority to the public utilities commission in accordance with section 269-J.

(c) In accordance with an approved green infrastructure loan program order or orders, the authority shall utilize the proceeds of bonds and other amounts deposited in the Hawaii green infrastructure special fund pursuant to 196-E, or to the extent permitted by a financing order, to pay financing costs, as defined in section 269-A.

(d) Within the order or orders issued by the public utilities commission under section 269-K, the authority shall obtain approval from the public utilities commission requiring the electric utilities to serve as agents to bill and collect the green infrastructure charge imposed to repay green infrastructure costs and transfer all green infrastructure charges collected to the authority on behalf of the department. Notwithstanding anything to the contrary, electric utilities shall not be obligated to bill, collect, or remit green infrastructure charges from non-utility customers.

§196-G Hawaii green infrastructure bond fund. (a) There is established the Hawaii green infrastructure bond fund as a special fund into which all proceeds of the green infrastructure fee established pursuant to section 269-F and any other proceeds of green infrastructure property shall be paid. The Hawaii green infrastructure bond fund may also receive other moneys as the department may determine and as provided in a financing order, including, without limitation, green infrastructure charges.

(b) Moneys in the Hawaii green infrastructure bond fund shall be impressed with the lien created by, and shall be used solely for purposes set forth in, section 269-D. Upon payment or defeasance of all bonds and financing costs, moneys in the fund, at the direction of the department, may be transferred into the Hawaii green infrastructure special fund established pursuant to section 196-E or other purpose as the department shall specify.

(c) The Hawaii green infrastructure bond fund shall be audited at least annually by a firm of independent certified public accountants selected by the department, and the results of this audit shall be provided to the department and the public utilities commission.

(d) Pursuant to section 39-68, the department shall appoint a trustee to receive, hold, and disburse all amounts required to be held in the Hawaii green infrastructure bond fund upon terms and conditions as set forth in a certificate, indenture, or trust agreement.

The Hawaii green infrastructure bond fund shall not be subject to section 37-53.

§196-H Compliance with revenue bond law. For purposes of assuring conformity of and compliance with part III of chapter 39, it is determined as follows:

- (1) For purposes of section 39-51, “revenues” shall include the green infrastructure fee and the proceeds of green infrastructure property; “loan program” shall include the loan program authorized under section 196-B; and “undertaking” shall include financing of the loan program through the issuance of green infrastructure revenue bonds;
- (2) In addition and supplemental to any covenants recognized under section 39-60, any resolution, certificate, or indenture approved by the department may have additional or alternative covenants as may be consistent with this chapter, and the department may enter into a trust indenture, servicing agreement, or other financing documents having terms and conditions consistent with the financing order issued under section 269-C;
- (3) In addition and supplemental to the power to impose rates, rentals, fees, or charges required under section 39-61, the department shall impose, adjust, and collect the green infrastructure fee as provided in section 269-F and the financing order issued pursuant thereto; and
- (4) In addition and supplemental to the uses specified in section 39-62, the green infrastructure fee shall be applied as provided in this chapter, the financing order, the certificate issued by the department, and any financing documents executed by the department in connection with the bonds.

§196-I Reporting; annual report. The authority shall submit a report to the legislature on the authority’s activities in administering the loan program no later than twenty days prior to the convening of each regular session beginning with the regular session of 2015. The report shall include a description and uses of the loan program; summary information and analytical data concerning the implementation of the loan program; summary information and analytical data concerning deployment of clean energy technology, demand response technology, and energy use reduction and demand side management infrastructure, programs, and services; and repayments made or credits provided to electric utility customers under this part or chapter 269, part .

§196-J Severability. If any provision of this part is held to be invalid or is superseded, replaced, repealed, or expires for any reason:

- (1) That occurrence shall not affect any action allowed under this part that is taken prior to that occurrence by the public utilities commission, an electric utility, the department, the authority, a bondholder, or any financing party, and any such action shall remain in full force and effect; and
- (2) The validity and enforceability of the rest of this part shall remain unaffected.”

SECTION 3. Chapter 269, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . GREEN INFRASTRUCTURE BONDS

§269-A Definitions. As used in this part:

"Ancillary agreement" means any bond insurance policy, letter of credit, reserve account, surety bond, swap arrangement, hedging arrangement, liquidity or credit support arrangement, or other related bond document or other similar agreement or arrangement entered into in connection with the issuance of bonds that is designed to promote the credit quality and marketability of the bonds or to mitigate the risk of an increase in interest rates.

"Authority" means the Hawaii green infrastructure authority established under section 196-C.

"Bond" or "green infrastructure bond" means any bond, note or other evidence of indebtedness that is issued by the State, acting through the department, under a financing order, the proceeds of which are used directly or indirectly to recover, finance, or refinance financing costs of clean energy technology, demand response technology, and energy use reduction and demand side management infrastructure, programs, and services, and that are secured by or payable from green infrastructure property.

"Bondholder" means any holder or owner of a bond.

"Clean energy technology" means any technology as defined in section 269-121(b).

"Department" means the department of business, economic development, and tourism, or any successor by law.

"Electric utilities" means all electric utilities subject to billing, collecting, and remitting the public benefits fee, or the green infrastructure fee, at the time the financing order becomes final, and any other electric utility designated in the financing order.

"Financing costs" means any of the following:

- (1) Principal and interest payable on bonds;
- (2) Any payment required under an ancillary agreement;
- (3) Any amount required to fund or replenish a reserve account or another account established under any indenture, ancillary agreement, or other financing document relating to the issuance of bonds;
- (4) Any redemption or call premium or cost of redeeming or refunding any existing debt of the department in connection with either the issuance of, or the use of proceeds from, bonds;
- (5) Any costs incurred by the department to modify or amend any indenture, financing agreement, security agreement, or similar agreement or instrument securing any bond or any ancillary agreement;
- (6) Any costs incurred by the department to obtain any consent, release, waiver, or approval from any bondholder or of any party to an ancillary agreement that are necessary to be incurred for the department to issue bonds;
- (7) Any costs related to issuing or servicing bonds or related to obtaining a financing order, including servicing fees and expenses, trustee fees and expenses, legal, accounting, or other professional fees and expenses, administrative fees, placement fees, underwriting fees and discounts, capitalized interest and equity, and rating-agency fees; or loan program administration costs as authorized for recovery under a financing order or orders; or
- (8) Any other similar costs incident to the issuance, administration, or servicing of the bonds that the department finds appropriate.

"Financing order" means an order issued at the request of the department by the public utilities commission under this part that has become final as provided by law, and that authorizes the issuance of bonds and the imposition, adjustment from time to time, and collection of green infrastructure fees.

"Financing party" means:

- (1) Any trustee, collateral agent, or other person acting for the benefit of a bondholder; or
- (2) Any party to an ancillary agreement, the rights and obligations of which relate to or depend upon the existence of green infrastructure property and green infrastructure fees, the enforcement and priority of a security interest in green infrastructure property, the timely collection and payment of green infrastructure fees, or a combination of these factors.

“Green infrastructure bond fund” means the special fund created pursuant to section 196-G.

“Green infrastructure charge” means the on-bill charges as defined in section 196-A.

“Green infrastructure fee” means the nonbypassable fees and charges authorized by section 269-F and in a financing order authorized under this part to be imposed on and collected from all existing and future customers of electric utilities or any successor.

“Green infrastructure loan program order” means an order issued by the public utilities commission under section 269-K that establishes the use or other disposition of amounts deposited and held in the Hawaii green infrastructure special fund pursuant to section 196-E.

“Green infrastructure property” means the property, rights, and interests created by the public utilities commission under a financing order, including the right to impose, charge, and collect from electric utility customers the green infrastructure fee that shall be used to pay and secure the payment of bonds and financing costs, including the right to obtain adjustments to the green infrastructure fee, and any revenues, receipts, collections, rights to payment, payments, moneys, claims, or other proceeds arising from the rights and interests created by the public utilities commission under any financing order.

“Green infrastructure special fund” means the special fund created pursuant to section 196-E.

“Successor” means, with respect to any electric utility, another electric utility or other entity that succeeds voluntarily or by operation of law to the rights and obligations of the first electric utility or other entity pursuant to any bankruptcy, reorganization, restructuring, or other insolvency proceedings; any merger, acquisition, or consolidation; or any sale or transfer of assets, regardless of how any of these actions occurred.

“Trustee” means any trustee or fiscal agent appointed under an indenture or certificate of the director executed in connection with the issuance of bonds pursuant to section 39-68.

§269-B Applications to issue bonds and authorize green infrastructure fee.

(a) In connection with the issuance of bonds, the department may apply to the public utilities commission for one or more financing orders, each of which financing orders authorizes the following:

- (1) The imposition, charging, and collection on behalf of the department of the green infrastructure fee, to become effective upon the issuance of the bonds, and the adjustment of the green infrastructure fee on behalf of the department in accordance with an adjustment mechanism requested by the department under this part in amounts sufficient to pay the principal of and interest on bonds and all related financing costs on a timely basis;
- (2) The creation of green infrastructure property under the financing order; and

- (3) The deposit of the net proceeds of the bonds into the green infrastructure special fund.
- (b) The application shall include all of the following:
 - (1) The principal amount of the bonds proposed to be issued;
 - (2) An estimate of the date each series of bonds is expected to be issued;
 - (3) The expected term, not to exceed thirty years, during which term the green infrastructure fee associated with the issuance of each series of bonds is expected to be imposed and collected;
 - (4) An estimate of the financing costs associated with the issuance of each series of bonds;
 - (5) An estimate of the amount of the green infrastructure fee revenues necessary to pay principal and interest on the bonds and related financing costs as set forth in the application and the calculation for that estimate, which calculation shall take into account the estimated date or dates of issuance and the estimated principal amount of each series of bonds;
 - (6) A proposed methodology for allocating the green infrastructure fee among electric utilities and customer classes within each electric utility;
 - (7) A description of a proposed formulaic adjustment mechanism for the adjustment of the green infrastructure fee to ensure the timely payment of principal and interest on the bonds and related financing costs; and
 - (8) Any other information required by the public utilities commission.

§269-C Green infrastructure financing order. (a) The public utilities commission shall issue its financing order as final or if a finding in subsection (b) cannot be made, its denial of a financing order, as expeditiously as possible and in any event within ninety days from the date the completed application is submitted.

(b) The public utilities commission may issue a financing order if the public utilities commission finds that the creation of the green infrastructure property to secure the payment of the bonds, including the imposition of the green infrastructure fee, will facilitate the acquisition of low-cost financing, pursuant to an application under section 269-B.

(c) The public utilities commission shall include all of the following in a financing order:

- (1) The maximum amount of bonds to be issued by the State acting through the department under the financing order;
- (2) A description of the green infrastructure property, the creation of which property is authorized by the financing order;
- (3) A description of the financing costs that will be recoverable through green infrastructure fees, including any reserves or overcollateralization amounts required by the department to secure payment of the bonds;
- (4) A description of the methodology to be applied by the public utilities commission, on behalf of the department, for calculating the green infrastructure fee, including the allocation of financing costs among electric utilities and customer classes;
- (5) A description of the formulaic adjustment mechanism to be used by the public utilities commission, on behalf of the department, to adjust the green infrastructure fee in order to ensure that the amount of the green infrastructure fee projected to be collected shall be sufficient to pay the principal and interest on the bonds, and all related

- financing costs on a timely basis, including the funding or maintenance of any reserves required to be maintained by the department;
- (6) The term of the bonds, as proposed by the department, during which term the green infrastructure fee shall continue to be collected and pledged to pay the bonds, which term shall automatically be extended by the term of any refunding bonds, as approved in a subsequent financing order, issued in such principal amounts as the department may determine to be necessary to refund the bonds that are the subject of the original financing order;
 - (7) A requirement that the electric utilities, including any successors, serve as agents to collect the green infrastructure fee and transfer those surcharges to the trustee or other financing party as required by the financing order and any agreements with the department;
 - (8) The procedures to be followed by the electric utilities in the event of non-payment or partial payment of the green infrastructure fee by the electric utilities' customers, which procedures shall be consistent with the public utilities commission approved procedures for non-payment and partial payment of rates, charges, and fees under the electric utilities' tariffs;
 - (9) The distribution of the total amounts collected by the electric utilities for amounts billed to customers for the electric utilities' rates, fees, the green infrastructure fee, other public utilities commission approved fees, and for associated taxes, in the event of partial payments of the billed amounts;
 - (10) Terms satisfactory to the public utilities commission to ensure that the green infrastructure fee shall be nonbypassable and will be paid by all existing and future customers of an electric utility or any successor; and
 - (11) Any other provision the public utilities commission considers appropriate to ensure the full and timely imposition, charging, collection, and adjustment, pursuant to an approved adjustment mechanism, of the green infrastructure fee described in this subsection.

The electric utilities serving as billing and collecting agents shall be parties to the proceedings in which the financing order or orders are issued.

(d) The public utilities commission, in a financing order, may permit the department flexibility in establishing the terms and conditions for the bonds to accommodate changes in market conditions, including repayment schedules, interest rates, financing costs, collateral requirements, required debt service and other reserves, and the ability of the department, at its option, to effect a series of issuances of bonds and correlated assignments, sales, pledges, or other transfers of green infrastructure property. Any changes made under this section to terms and conditions for the bonds shall be in conformance with the financing order.

(e) At the request of the department, the public utilities commission shall determine, in accordance with the adjustment mechanism set forth in the financing order, the initial green infrastructure fee after the determination of the final terms of each series of bonds, so that the green infrastructure fee shall be final and effective upon issuance of the bonds.

(f) Any adjustment to the green infrastructure fee made by the public utilities commission pursuant to the adjustment mechanism approved in the financing order shall be a ministerial act of the public utilities commission.

§269-D Green infrastructure property. (a) The green infrastructure property shall be created simultaneously with the issuance of the bonds and shall

immediately vest in the department, which shall pledge and create a lien on the property, together with all other money in the green infrastructure bond fund, solely and exclusively in favor of bondholders and financing parties, to secure the payment of bonds, amounts payable to financing parties and bondholders, amounts payable under any ancillary agreement, and other financing costs as provided in the financing documents executed by the department. Subject to this subsection, the lien and charge on green infrastructure property and all other moneys in the green infrastructure bond fund for the benefit of any financing party shall be governed by section 39-63.

(b) An electric utility shall have no ownership or beneficial interest in nor any claim or right to the green infrastructure fee, green infrastructure property, green infrastructure equipment, or green infrastructure charge other than the obligation to bill and collect the green infrastructure fee and green infrastructure charge as agent for the department or any financing party and remit the collected revenue to the department or such financing party entitled to receive those surcharges in accordance with the financing order. The public utilities commission shall ensure that all reasonable costs incurred by electric utilities to implement the green infrastructure fee may be recovered as part of the electric utility's revenue requirement, including necessary billing system adjustments, costs arising out of the billing and collection of the green infrastructure fee, and any costs for the green infrastructure fee that are not recovered otherwise. The green infrastructure fee or green infrastructure property shall not be considered revenue of any electric utility.

(c) The obligation of any electric utility customer to pay the green infrastructure fee or green infrastructure charge and, notwithstanding subsection (b), the obligation of the electric utility to collect and remit the green infrastructure fee or green infrastructure charge shall not be subject to any setoff, counterclaim, surcharge, or defense by the electric utility or by any electric utility customer, or in connection with a bankruptcy of any electric utility or any electric utility customer.

§269-E Bonds financing order. (a) A financing order shall remain in effect until the bonds issued under the financing order and all financing costs related to the bonds have been paid in full or defeased by their terms. A financing order shall remain in effect and unabated notwithstanding the bankruptcy, reorganization, or insolvency of any electric utility or any affiliate of the electric utility or the commencement of any judicial or nonjudicial proceeding on the financing order.

(b) Once a financing order has become final as provided by law, the financing order shall become irrevocable. The public utilities commission may not directly or indirectly, except as provided in the adjustment mechanism approved in the financing order, reduce, impair, postpone, rescind, alter, or terminate the green infrastructure fee authorized in the financing order or impair the green infrastructure property or the collection of the green infrastructure fee so long as any bonds are outstanding or any financing costs remain unpaid.

(c) Under a final financing order, the department shall retain sole discretion to cause bonds to be issued, including the right to defer or postpone such issuance, assignment, sale, or transfer.

§269-F Green infrastructure fee; nonbypassable. (a) The public utilities commission may create, pursuant to a financing order approved pursuant to section 269-C, a utility-wide nonbypassable surcharge, referred to as the green infrastructure fee, which shall be deposited into the green infrastructure bond fund and be pledged to secure and be applied to the repayment of bonds and related

financing costs as described in this part. The green infrastructure fee may be a usage-based surcharge, a flat user fee, or a charge based upon customer revenues as determined by the public utilities commission for each customer class in any financing order.

(b) The green infrastructure fee may be applied to reduce the public benefits fee to be transferred pursuant to section 269-121 if so provided in a financing order. Nothing in this subsection shall affect the right to impose, collect, and adjust from time to time the green infrastructure fee as provided in the financing order and this chapter.

(c) As long as any bonds are outstanding and any financing costs have not been paid in full, the green infrastructure fee authorized under any financing order shall be nonbypassable. Subject to any exceptions provided in a financing order, the green infrastructure fee shall be paid by all existing and future customers of electric utilities or any successors.

(d) The green infrastructure fee shall be collected by the electric utilities or their successors, as collection agents for the department or the financing parties, in full through a surcharge, fee, or charge that is separate and apart from the electric utilities' rates.

§269-G Electric utility successor requirements; default of electric utility.

(a) Any successor to an electric utility subject to a financing order shall be bound by the requirements of this part. The successor shall perform and satisfy all obligations of the electric utility under the financing order, in the same manner and to the same extent as the electric utility, including the obligation to collect and pay the green infrastructure fee to the department or to any financing party as required by a financing order.

(b) The public utilities commission may require, in the financing order creating the green infrastructure fee and green infrastructure property, that, if a default by the electric utility in remittance of the green infrastructure fee collected arising with respect to green infrastructure property occurs, the public utilities commission, upon the application by the department, and without limiting any other remedies available to the department or any financing party by reason of the default, shall order the sequestration and payment to the beneficiaries of the green infrastructure fee collected arising with respect to the green infrastructure property. Any order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the electric utility.

§269-H Treatment of bonds, fees, and property. (a) In the furtherance of section 39-65, the ownership, transfer, and pledge of the green infrastructure fee and green infrastructure property and the imposition, charging, collection, and receipt of the green infrastructure fee and green infrastructure charge are exempt from all taxes and surcharges imposed by the State or the counties, including the general excise tax under chapter 237, public service company tax under chapter 239, public utility fee under section 269-30, and public utility franchise tax under chapter 240.

(b) Bonds issued under a financing order shall not be an obligation of any electric utility. The issuance of bonds shall not directly, indirectly, or contingently obligate the electric utility for payment of the principal of or interest on the bonds.

§269-I Green infrastructure property; non-impairment. (a) In furtherance of section 39-61, the State pledges to and agrees with the bondholders and any financing parties under a financing order that the State will not take or per-

mit any action that impairs the value of green infrastructure property under the financing order, or reduce, alter, or impair the green infrastructure fee that is imposed, charged, collected, or remitted for the benefit of the bondholders and any financing parties, until any principal, interest, and redemption premium in respect of bonds, all financing costs, and all amounts to be paid to a financing party under an ancillary agreement are paid or performed in full or unless adequate provision has been made by law for the protection of bondholders and other financing parties.

(b) In issuing the bonds, the department may include the pledge specified in subsection (a) of this section in the bonds, ancillary agreements, and documentation related to the issuance and marketing of the bonds.

§269-J Green infrastructure loan program order; application. (a) The authority shall submit an application to the public utilities commission for the use or other disposition of amounts deposited or held in the green infrastructure special fund pursuant to section 196-E prior to the allocation, use, expenditure, or other disposition of any such amounts; provided that this subsection shall not apply to the expenditure of amounts deposited or held in the green infrastructure special fund that have been reviewed and approved by the public utilities commission for operational or administrative expenses of the authority pursuant to section 196-D.

(b) An application submitted by the authority to the public utilities commission under this section shall include the following:

- (1) A description of each project, program, financing agreement, or other arrangement for which the authority seeks to allocate, use, expend, or otherwise dispose of amounts deposited or held in the green infrastructure special fund, including:
 - (A) The clean energy technology, demand response technology, and energy use reduction and demand side management infrastructure, programs, and services to be financed;
 - (B) A description of the parties, both direct and incidental, intended to benefit from any financing made in connection with the green infrastructure special fund amounts requested by the authority in an application submitted to the public utilities commission under this section;
 - (C) A description of the loan programs or other arrangements designed, established, identified, agreed to, agreed to in principle, continued, carried over, or otherwise intended to be effectuated for the use of the green infrastructure special fund amounts requested by the authority in an application submitted to the public utilities commission under this section; and
 - (D) Any and all funding or credit sources identified, pledged, dedicated, or otherwise provided to supplement the green infrastructure special fund amounts requested by the authority in an application submitted to the public utilities commission under this section;
- (2) Minimum lending, crediting, or investing criteria in relation to each project, program, financing agreement, or other arrangement described in an application submitted to the public utilities commission under this section;
- (3) A description of the repayment processes, mechanisms, and applicable calculations for each project, program, financing agreement, or other arrangement described in an application submitted to the public utilities commission under this section;

- (4) An explanation of the anticipated impacts and benefits to electric utility ratepayers of any project, program, financing agreement, or other arrangement described under an application submitted by the authority to the public utilities commission under this section; and
- (5) Any other additional information determined to be necessary by the public utilities commission upon the review of an application submitted or resubmitted by the authority under this section.

§269-K Green infrastructure loan program order; issuance. (a) The public utilities commission may issue a program order authorizing the allocation, use, expenditure, or other disposition of any amounts deposited or held in the green infrastructure special fund upon the submission by the authority to the commission of a completed application, as described in this section. A green infrastructure loan program order issued by the public utilities commission shall include the following, where determined necessary and applicable by the commission:

- (1) An identification and description of each project, program, financing agreement, or other arrangement approved by the public utilities commission for which amounts deposited or held in the green infrastructure special fund may be allocated, used, expended, or otherwise disposed of;
 - (2) Minimum criteria for the lending, crediting, or investing of amounts deposited or held in the green infrastructure special fund;
 - (3) A description of the repayment processes, mechanisms, and applicable calculations for each project, program, financing agreement, or other arrangement approved by the public utilities commission for which amounts deposited or held in the green infrastructure special fund may be allocated, used, expended, or otherwise disposed of;
 - (4) A review of the anticipated impacts and benefits to electric utility ratepayers of any project, program, financing agreement, or other arrangement approved under a green infrastructure loan program order; and
 - (5) Any other provision or information determined to be necessary by the public utilities commission.
- (b) The public utilities commission shall issue an order under this section as expeditiously as possible upon the receipt from the authority of a completed application submitted pursuant to section 269-J.
- (c) The order shall specify the following, including:
- (1) The procedures to be followed by the electric utilities in the event of non-payment or partial payment of the green infrastructure charge by the electric utilities' customers, which procedures shall be consistent with the public utilities commission's approved procedures for non-payment and partial payment of rates, charges, and fees under the electric utilities' tariffs; and
 - (2) The distribution of the total amounts collected by the electric utilities for amounts billed to customers for the electric utilities' rates, fees, and charges, for the green infrastructure charge, for other fees and charges approved by the public utilities commission, and for associated taxes, in the event of partial payments of the billed amounts.

The electric utilities serving as billing and collecting agents shall be parties to the proceedings in which the order or orders are issued.

§269-L Electric utilities; cost recovery; billing agent. (a) The public utilities commission shall ensure that all reasonable costs incurred by electric utili-

ties to start up and implement the loan program may be recovered as part of the electric utility's revenue requirement, including necessary billing system adjustments, costs arising out of the billing and collection of green infrastructure charges, and any costs for green infrastructure charges that are not recovered via participating customers' green infrastructure bill payments, or otherwise.

(b) The green infrastructure charge shall not be considered revenue of the electric utilities and accordingly, shall not be subject to state or county taxes, including the general excise tax under chapter 237, the public service company tax under chapter 239, the public utility fee under section 269-30, and the public utility franchise tax under chapter 240.

(c) The loan program or the act of serving as an agent to bill and to collect the green infrastructure charge shall not cause any electric utility to be subject to the laws that regulate financial institutions, escrow depositories, or collection agencies. An electric utility shall not be responsible for lending, underwriting, and credit determinations.

§269-M Severability. If any provision of this part is held to be invalid or is superseded, replaced, repealed, or expires for any reason:

- (1) That occurrence shall not affect any action allowed under this part that is taken prior to that occurrence by the public utilities commission, an electric utility, the department, the authority, a bondholder, or any financing party, and any such action shall remain in full force and effect; and
- (2) The validity and enforceability of the rest of this part shall remain unaffected.

§269-N Miscellaneous. Neither the department nor a financing party shall be considered an electric utility or person providing electric service by virtue of engaging in the transactions described in this part.

§269-O Revenue bonds; exclusion from debt limit. Green infrastructure bonds are revenue bonds issued under article VII, section 12, of the Hawaii state constitution, and chapter 39, part III, as modified by this part, and the department shall ensure that any bonds issued under this part are excluded from the calculation of the State's debt limit pursuant to article VII, section 13, of the Hawaii state constitution.

§269-P Financing order; adjustments to green infrastructure fee. The financing order shall include, without limitation, a procedure to require the public utilities commission, in accordance with a formula set out in the financing order and approved by the department, to expeditiously review and approve periodic adjustments to the green infrastructure fee to ensure the payment of the bonds and related financing costs on a timely basis."

SECTION 4. Section 269-5, Hawaii Revised Statutes, is amended to read as follows:

"§269-5 Annual report and register of orders. The public utilities commission shall prepare and present to the governor, through the director of finance, in the month of January in each year a report respecting its actions during the preceding fiscal year. This report shall include summary information and analytical, comparative, and trend data concerning major regulatory issues acted upon and pending before the commission; cases processed by the commission, including their dispositions; utility company operations, capital improvements,

and rates; utility company performance in terms of efficiency and quality of services rendered; financing orders issued, adjustments made to the public benefits fee, and repayments or credits provided to electric utility customers pursuant to part or chapter 196, part; environmental matters having a significant impact upon public utilities; actions of the federal government affecting the regulation of public utilities in Hawaii; long and short-range plans and objectives of the commission; together with the commission's recommendations respecting legislation and other matters requiring executive and legislative consideration. Copies of the annual reports shall be furnished by the governor to the legislature. In addition, the commission shall establish and maintain a register of all its orders and decisions, which shall be open and readily available for public inspection, and no order or decision of the commission shall take effect until it is filed and recorded in this register."

SECTION 5. Section 269-121, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The public benefits fee shall be used to support [energy efficiency] clean energy technology, demand response technology, and energy use reduction and demand-side management infrastructure, programs, and services, subject to the review and approval of the public utilities commission. These moneys shall not be available to meet any current or past general obligations of the State; provided that the State may participate in any [energy efficiency or] clean energy technology, demand response technology, or energy use reduction and demand-side management infrastructure, programs, and services on the same basis as any other electric consumer.

"Clean energy technology" means any commercially available technology that enables the State to meet the renewable portfolio standards under section 269-92, or the energy efficiency portfolio standards under section 269-96, and approved by the public utilities commission by rule or order."

SECTION 6. (a) The legislature finds and declares that the issuance of revenue bonds under this Act is in the public interest and for the public health, safety, and welfare.

(b) The department of business, economic development, and tourism is authorized to issue revenue bonds pursuant to part III of chapter 39, Hawaii Revised Statutes, as amended and supplemented by this Act, in a principal amount not to exceed \$200,000,000 to establish and administer the Hawaii green infrastructure loan program pursuant to section 196-B, Hawaii Revised Statutes.

(c) The department of business, economic development, and tourism is authorized to issue from time to time refunding bonds in such principal amounts as the department shall determine to be necessary to refund the green infrastructure bonds authorized under this Act, to the extent permitted by the financing documents.

(d) To the extent there is any conflict between this Act and part III of chapter 39, Hawaii Revised Statutes, this Act shall prevail.

SECTION 7. There is appropriated out of the Hawaii green infrastructure special fund established pursuant to section 196-E, Hawaii Revised Statutes, the sum of \$100,000,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015.

The sums appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 8. There is appropriated out of the Hawaii green infrastructure bond fund established pursuant to section 196-G, Hawaii Revised Statutes, the sum of \$10,000,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the sum of \$20,000,000 or so much thereof as may be necessary for fiscal year 2014-2015.

The sums appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 9. The department of business, economic development, and tourism, with the assistance of the Hawaii green infrastructure authority, shall submit a report on the status of the Hawaii green infrastructure authority's activities, including approved loan program description and uses; summary information and analytical data concerning implementation of the loan program; summary information and analytical data concerning the deployment of clean energy technology, demand response technology, and energy use reduction and demand-side management infrastructure, programs, and services; and repayments made or credits provided to electric utility customers under section 196-E and part of chapter 269, Hawaii Revised Statutes, no later than twenty days prior to the convening of the regular session of 2014.

SECTION 10. The Hawaii green infrastructure authority shall conduct a study in the 2015 calendar year to determine:

- (1) The extent to which the Hawaii green infrastructure authority's activities have benefitted the State by advancing the State's renewable energy goals and reducing energy costs for consumers by providing affordable alternative energy options; and
- (2) Whether the loan program shall be extended, eliminated, or otherwise modified beginning July 1, 2016.

The Hawaii green infrastructure authority shall submit a report of its findings from the study to the Legislature no later than twenty days prior to the convening of the regular session of 2016.

SECTION 11. In codifying the new part added to chapter 196, Hawaii Revised Statutes, by section 2 of this Act and the new part added to chapter 269, Hawaii Revised Statutes, by section 3 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating and referring to the new sections in this Act.

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 13. This Act shall take effect upon its approval; provided that sections 7 and 8 shall take effect on July 1, 2013.

(Approved June 27, 2013.)

ACT 212

H.B. NO. 529

A Bill for an Act Relating to Care Homes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§321- Care homes; liability insurance; coverage. (a) All operators of adult foster homes under section 321-11.2, adult residential care homes, assisted living facilities, community care foster family homes as defined in section 321-481, developmental disabilities domiciliary homes as defined in section 321-15.9, and expanded adult residential care homes as defined in section 321-15.1, shall obtain and maintain the following in coverage amounts deemed sufficient and appropriate by the department of health:

- (1) Liability insurance with respect to their operation of the homes or facilities; and
 - (2) Automobile liability insurance, including adequate bodily injury liability coverage for vehicles used to transport residents of the homes or facilities.
- (b) Proof of liability insurance for both the home or facility and for vehicles used to transport home or facility residents as required by subsection (a) shall be verified by the department of health, or its designee, on an annual basis.
- (c) The department shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section."

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§346- Care homes; liability; insurance; coverage. (a) All operators of community care foster family homes as defined in section 346-331 shall obtain and maintain the following in coverage amounts deemed sufficient and appropriate by the department:

- (1) Liability insurance with respect to the operation of the homes; and
 - (2) Automobile liability insurance, including adequate bodily injury liability coverage for vehicles used to transport residents of the homes.
- (b) Proof of liability insurance for both the home and for vehicles used to transport home residents as required by subsection (a) shall be verified by the department, or its designee, on an annual basis.
- (c) The department shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section."

SECTION 3. Section 321-11.2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department of health is authorized to certify adult foster homes for ~~[developmentally disabled]~~ individuals with developmental disabilities or intellectual disabilities requiring such care beyond the eighteenth birthday. "Adult foster home" means a private home providing care on a twenty-four hour basis for adults with developmental or intellectual disabilities. To be certified, an adult foster home shall have not more than two adults with developmental or intellectual disabilities at the same time, who are unrelated to the foster family. The director of health may waive the two adult limit for certification of that home as an adult foster home; provided that the number of adults with developmental or intellectual disabilities in the certified home shall not exceed three adults with developmental or intellectual disabilities. To accommodate residents of a foster boarding home for children with developmental or intellectual disabilities who reach the age of eighteen years, where the home is certified as a foster boarding home for children under section 346-17, the director of health may waive the two adult limit for certification of that home as an adult foster home, provided that: (1) the number of foster children and adults in such dually certified home shall not exceed five, and (2) no new adults may be admitted into the home while there are any foster children residing in the home."

SECTION 4. Section 321-11.7, Hawaii Revised Statutes, is amended to read as follows:

~~“[§321-11.7 Care homes; liability insurance; coverage.]~~ (a) All operators of adult foster homes under section 321-11.2 ~~[and]~~, adult residential care homes, assisted living facilities, developmental disabilities domiciliary homes as defined in section 321-15.9, and expanded adult residential care homes as defined in section 321-15.1 shall obtain and maintain ~~[liability] the following in coverage amounts deemed sufficient and appropriate by the department of health:~~

(1) ~~Liability insurance with respect to their operation of the homes or facilities [in a coverage amount deemed sufficient by the department. This section shall not apply to operators of adult foster homes, adult residential care homes, assisted living facilities, and expanded adult residential care homes that:~~

- ~~(1) Are operating under a contract with the department of human services or the department of health; and~~
- ~~(2) Are in compliance with the liability insurance coverage requirements of that contract;] and~~
- ~~(2) Automobile liability insurance, including adequate bodily injury liability coverage for vehicles used to transport residents of the homes or facilities.~~

~~(b) Proof of liability insurance for the home or facility and for vehicles used to transport home or facility residents as required by subsection (a) shall be verified by department of health, or its designee, on an annual basis.~~

~~[(b)] (c) The department of health shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section.”~~

SECTION 5. Act 221, Session Laws of Hawaii 2011, is amended by amending section 5 to read as follows:

~~“SECTION 5. This Act shall take effect on July 1, 2011; provided that on [June 30, 2013,] July 1, 2014, this Act shall be repealed [and sections 346-331 and 346-334, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act].”~~

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act shall take effect upon its approval; provided that:

- (1) Section 1 shall take effect on July 1, 2014;
- (2) Section 5 shall take effect on June 29, 2013; and
- (3) Sections 2 and 4 shall be repealed on July 1, 2014.

(Approved June 27, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the department of health is responsible for licensing, certifying, and monitoring several types of care facilities. Although the department performs inspections to ensure a standard of quality of these facilities using state moneys, the public currently cannot easily access the information contained in the inspection reports. The legislature finds that the public would benefit from greater access to information on the quality and conditions of care facilities in Hawaii.

The purpose of this Act is to require the department of health to make available to the public, free of charge, information collected from the department's inspections in certain care facilities and establish a working group to develop a new inspection form to be posted online with information that is fair to care home operators and useful to the public.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§321- Inspections; public notice. (a) Beginning with inspections occurring on January 1, 2015, the department of health shall post on its website electronic copies of reports for all inspections it performs of the following state-licensed care facilities:

- (1) Adult day health centers;
- (2) Adult day care centers;
- (3) Community care foster family homes;
- (4) Developmental disabilities domiciliary homes as defined in section 321-15.9;
- (5) Developmentally disabled adult foster homes;
- (6) Long-term care facilities as defined in section 349-21(f); and
- (7) Special treatment facilities as defined in section 334-1.

(b) Each report shall be posted on the department of health's website within five working days of the conclusion of each inspection and shall include the following information:

- (1) The date of the inspection;
- (2) A description of violations of relevant state laws or rules, if applicable;
- (3) Plans of correction and the status of corrective actions in response to any violations, if applicable;
- (4) A list and description of all corrective actions taken by the facility, if applicable, to be submitted by the facility and added to the report at a later time, as determined by the department; and
- (5) Other information regarding the quality and conditions of the facility the department of health deems appropriate.

(c) Each report posted on the department of health's website that reports a violation committed by a state-licensed care facility as described in subsection (a) shall be removed from the website after three years from the date the report was posted."

SECTION 3. (a) There is established under the department of health for administrative purposes a working group on licensed care facilities.

(b) The working group shall develop an inspection form to be posted online with information that is fair to the care home operators and useful to the public. The inspection form shall maintain the necessary objectivity and clarity in presenting relevant information to consumers.

(c) The following individuals or their designees shall serve as members of the working group:

- (1) The director of health, who shall serve as the chairperson of the working group;
- (2) The director of commerce and consumer affairs;
- (3) The chief information officer of the office of information management and technology;
- (4) The director of the executive office on aging; and
- (5) The long-term care ombudsman.

(d) The director of health shall invite representatives from the following to also serve as members of the working group:

- (1) Major caregiver provider groups from the state-licensed care facilities specified under section 321- (a), Hawaii Revised Statutes; and
- (2) Advocacy groups.

Members of the working group shall serve without compensation and without reimbursement for expenses.

(e) The working group shall report its findings and recommendations to the legislature no later than twenty days prior to the convening of the regular session of 2014.

(f) The working group shall be dissolved on June 30, 2014.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$74,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 to fund computer equipment, website and database development, and staff support, including two full-time equivalent positions (2.0 FTE).

The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 5. New statutory material is underscored.¹

SECTION 6. This Act shall take effect on July 1, 2013.

(Approved June 27, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 214

S.B. NO. 106

A Bill for an Act Relating to Aging.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. Chapter 349, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§349- Alzheimer’s disease and related dementia services coordinator.

There is established within the executive office on aging an Alzheimer’s disease and related dementia services coordinator to coordinate the provision of public and private Alzheimer’s disease and related dementia services. The coordinator shall be appointed by the director in accordance with chapters 76 and 89.”

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$70,000 or so much thereof as may be necessary for fiscal year 2013-2014 to establish and fill an Alzheimer’s disease and related dementia services coordinator position.

The sum appropriated shall be expended by the department of health for the purposes of this section.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,600,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the kupuna care program; provided that the sum appropriated shall be in addition to the base budget of the executive office on aging.

The sum appropriated shall be expended by the department of health for the purposes of this section.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the healthy aging partnership program of the department of health’s executive office on aging.

The sum appropriated shall be expended by the department of health for the purposes of this section.

PART II

SECTION 5. The legislature finds that Hawaii’s residents, including elders and individuals with disabilities, should be able to live at home with the supports they need so that they can participate in communities that value their contributions. A goal of the executive office on aging is to increase access to community supports and full participation, while focusing attention and resources on the unique needs of older adults and individuals with disabilities. For example, the executive office on aging, in partnership with the county agencies on aging, is transforming Hawaii’s home- and community-based services system through the establishment of aging and disability resource centers. This is testimony to their commitment to promote community living and to find new mechanisms to help ensure that the supports that elders and individuals with disabilities need to live in the community are accessible.

The legislature also finds that statewide, especially in rural communities, many residents are without family members nearby to provide transportation and are too frail or disabled to access public transit. Transportation services are often fragmented, underutilized, or difficult to navigate, and can be costly because of inconsistent, duplicative, and often restrictive federal and state program rules and regulations. Due to these circumstances, there is a need for a policy on mobility management, a concept in which a single entity in a geographical area is charged with knowing and deploying the entire array of transportation resources available. This system would focus on the individual and identify the best transportation options, both public and private, for an individual’s travel needs.

The legislature further finds that mobility management services help to maximize the use of intelligent transportation systems and other technology

to enhance mobility and create one-call systems that allow greater ease-of-use for customers. Consequently, the legislature believes that a task force is needed to analyze and make recommendations on state-level policy on mobility management.

The purpose of this part is to establish a task force on mobility management.

SECTION 6. (a) There is established within the department of health a task force on mobility management. The task force shall make recommendations on establishing a transportation framework to assist elders and individuals with disabilities with transportation needs in each county, including recommendations relating to the state budget and program development.

(b) The task force on mobility management shall consider:

- (1) Developing and establishing a program in which a single entity in a geographical area is charged with administering an array of transportation resources;
- (2) The cost and qualifications of transportation coordinators or operators and the logistics of the arrangements and delivery of transportation services, including cost reimbursements, insurance, and liability; and
- (3) Developing a mobility management master plan for each county to:
 - (A) Address the growing demands for transportation services;
 - (B) Encourage living at home;
 - (C) Improve efficiencies in the use of public and private sector vehicles;
 - (D) Use modern technology in the management of transportation services; and
 - (E) Include a transportation service component that utilizes the transportation resources of nonprofit organizations that are willing to participate in a vehicle-sharing network to provide on-call transportation services to elders and individuals with disabilities residing in each county.

(c) The task force shall consist of the following members, or their designees:

- (1) The director of the executive office on aging, who shall serve as chairperson of the task force;
- (2) The chairperson of the public utilities commission;
- (3) The executive director of the disability and communication access board;
- (4) Two administrators of a federally qualified health center or rural health clinic, of which one representative shall be from a rural community and one representative shall be from an urban community, to be appointed by the director of the executive office on aging;
- (5) The directors of transportation services from each of the four counties;
- (6) One member of the house of representatives, to be designated by the speaker of the house of representatives;
- (7) One member of the senate, to be designated by the president of the senate;
- (8) One representative from the agency on aging of each of the four counties, to be appointed by the mayor of the respective county;
- (9) The director of health;
- (10) Service providers from two counties;

- (11) Consumer representatives from counties not represented by service providers; and
- (12) Representatives from the business community.
- (d) The department of health, through the executive office on aging, shall submit an interim report of the task force's findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2014, and a final report of the task force's findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2015.
- (e) The members of the task force shall not be compensated for their service on the task force but may be reimbursed for reasonable expenses, including travel expenses, incurred for serving on the task force. No member shall be made subject to chapter 84, Hawaii Revised Statutes, solely because of that member's participation as a member of the task force.
- (f) The task force shall be dissolved on June 30, 2015.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$30,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the staffing, operations, and convening of the task force on mobility management.

The sum appropriated shall be expended by the department of health for the purposes of this part.

PART III

SECTION 8. New statutory material is underscored.¹

SECTION 9. This Act shall take effect on July 1, 2013.

(Approved June 27, 2013.)

Note

- 1. Edited pursuant to HRS §23G-16.5.

ACT 215

H.B. NO. 398

A Bill for an Act Relating to Human Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. (a) There is established a working group to review issues relating to the transition of oversight of home and community-based facilities from the department of human services to the department of health, including services offered by or issues related to:

- (1) Community care foster family homes;
- (2) Adult residential care homes;
- (3) Adult day care centers;
- (4) Caregivers of persons with developmental or intellectual disabilities;
- (5) Adult foster homes;
- (6) Licensed case management agencies; and
- (7) Fees, rules, and regulations that affect all of these care setting providers.

(b) The working group shall be convened by the chairs of the house of representatives and senate committees on human services. The working group shall consist of:

- (1) The chairs of the house of representatives and senate committees on human services, who shall serve as co-chairs;
 - (2) One representative from the department of human services;
 - (3) One representative from the department of health;
 - (4) Four representatives of community care foster family homes, of which two representatives shall be appointed by the senate president and two representatives shall be appointed by the speaker of the house of representatives;
 - (5) Four representatives of adult residential care homes, of which two representatives shall be appointed by the senate president and two representatives shall be appointed by the speaker of the house of representatives;
 - (6) Two representatives from adult day care centers, of which one representative shall be appointed by the senate president and one representative shall be appointed by the speaker of the house of representatives;
 - (7) Two representatives of developmental disabilities domiciliary homes, of which one representative shall be appointed by the senate president and one representative shall be appointed by the speaker of the house of representatives;
 - (8) Two representatives of adult foster homes, of which one representative shall be appointed by the senate president and one representative shall be appointed by the speaker of the house of representatives; and
 - (9) Two representatives of licensed case management agencies, of which one representative shall be appointed by the senate president and one representative shall be appointed by the speaker of the house of representatives.
- (c) Members shall serve without compensation and shall not be considered state employees based solely upon their participation in the working group.
- (d) The working group shall submit a written report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2014.
- (e) The working group shall terminate on June 30, 2014.

SECTION 2. This Act shall take effect on July 1, 2013.

(Approved June 27, 2013.)

ACT 216

S.B. NO. 102

A Bill for an Act Relating to the Elderly.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 412:3-114.5, Hawaii Revised Statutes, is amended to read as follows:

“[§412:3-114.5] Mandatory reporting of suspected financial abuse of an elder. (a) A financial institution shall report suspected financial abuse that is

directed towards, targets, or is committed against an elder to the department of human services ~~[if:] and the appropriate county police department if:~~

- (1) In connection with providing financial services to the elder, the officer or employee of a financial institution:
 - (A) Has direct contact with the elder; or
 - (B) Reviews or approves the elder's financial documents, records, or transactions; and
- (2) The officer or employee, within the scope of employment or professional practice:
 - (A) Observes or has knowledge of an incident the officer or employee believes in good faith appears to be financial abuse; or
 - (B) In the case of officers or employers who do not have direct contact with the elder, has a good faith suspicion that financial abuse has occurred or may be occurring, based solely on the information present at the time of reviewing or approving the document, record, or transaction.

(b) Suspected financial abuse shall be reported ~~[immediately to the department]~~ by telephone ~~[and by written report sent within five business days.]~~, facsimile, or electronic device, immediately or as soon as practicably possible, to the department and the appropriate county police department.

(c) Upon notification by a financial institution of suspected financial abuse, the department, in a timely manner, shall determine whether the department has jurisdiction over the elder involved; ~~and if not, shall notify the financial institution, which shall then notify the proper local law enforcement agency immediately by telephone and forward the written report to the agency within three business days. A financial institution shall not be liable for failing to report suspected financial abuse to a local law enforcement agency in cases in which the department fails to notify the institution of the department's lack of jurisdiction.] and proceed in accordance with chapter 346.~~

(d) Upon notification by a financial institution of suspected financial abuse, the county police department, in a timely manner, shall proceed with a criminal investigation.

~~[(d)]~~ (e) Notwithstanding any other state law to the contrary, including but not limited to laws concerning confidentiality, any person, including ~~[the]~~ a financial institution, who:

- (1) Participates in the making of a report pursuant to this section; and
- (2) Believes, in good faith, that the action is warranted by facts known to that person,

shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of the report. Any person making the report shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

~~[(e)]~~ (f) For the purposes of this section:

"Department" means the department of human services.

"Elder" means a person who is sixty-two years of age or older.

"Financial abuse" means [financial abuse or economic exploitation.] to wrongfully take, appropriate, obtain, or retain, or assist in taking, appropriating, obtaining, or retaining, real or personal property of an elder by any means, including undue influence, or with intent to defraud the elder."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 27, 2013.)

ACT 217

H.B. NO. 266

A Bill for an Act Relating to Language Access.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that according to the United States Census Bureau, American Community Survey of 2009-2011, 329,827 of Hawaii's 1,361,628 people, or twenty-four per cent of Hawaii's population, speak a language other than English at home. This includes nearly 281,607 persons who speak an Asian or Pacific Island language. According to the same studies, out of those who speak a language other than English at home, 151,187 or forty-six per cent are limited English proficient. According to recent statistics from the non-profit Immigration Policy Center, the research and policy arm of the American Immigration Council, about eighteen per cent of Hawaii's residents are foreign born, while fourteen per cent of Hawaii's children with immigrant parents are limited English proficient.

The legislature therefore recognizes that English is not the primary language for a significant proportion of Hawaii's residents. These people have only a limited ability to read, write, speak, or understand English. Language barriers often prohibit many residents from fully participating in the community. Despite personal, family, community, and government efforts to make those with limited English proficiency more self-sufficient and productive, these efforts are often undermined by lack of access to essential government and government-funded services due to the language restrictions of Hawaii's limited English proficient population.

The legislature formerly recognized and acknowledged that language is a barrier for those living in Hawaii who have identified themselves as being limited English proficient. Consequently, the legislature passed Act 290, Session Laws of Hawaii 2006, and Act 201, Session Laws of Hawaii 2012, to ensure that limited English proficient individuals have meaningful access to state-provided and state-funded services in Hawaii. These laws established the Hawaii office of language access to provide oversight, central coordination, and technical assistance to state and state-funded entities in their implementation of the requirements of the language access law.

The language access law requires every state agency and any organization that receives state funding and provides services to the public to establish a language access plan on how they will provide meaningful access to their agency's services, including but not limited to social service programs, job training and employment assistance programs, fair and impartial administrative and other hearings, or emergency assistance. These services are to be provided to all of Hawaii's diverse population, regardless of what language they speak.

In an effort to comply with Act 290, Session Laws of Hawaii 2006, by the end of 2007, plans for twenty-six state departments and agencies and more than sixty state-funded entities were completed. During the subsequent implementation of these language access plans, several major challenges were identified as preventing the state and covered entities from providing meaningful access in the form of interpretation and translation services to limited English proficient individuals, thereby limiting the ability of limited English proficient individuals.

First, there is no comprehensive and centralized system or structure in Hawaii to identify qualified language interpreters and translators.

Second, Hawaii has a dearth of competent language interpreters and translators available to assist limited English proficient individuals. This is critical because a key element to the successful implementation of the language access plans is the availability of trained and competent interpreters and transla-

tors so limited English proficient individuals can receive competent, timely, and meaningful language access assistance to government and government-funded services.

Third, despite great technological advances, state agencies do not have multilingual websites that can help limited English proficient individuals access needed information in their own language.

The creation of a statewide language access resource center will address the first two needs. A study commissioned by the legislature through Senate concurrent resolution No. 67, S.D. 1, in 2008, which was undertaken by the office of language access, concluded that there is a need and support for the establishment of a language access resource center in Hawaii.

With a statewide language access resource center, Hawaii will have a centralized resource that will meet the specific needs of government agencies and state-funded entities to comply with Hawaii's language access laws and benefit the general public, including the limited English proficient population, and non-profit and for-profit organizations.

The purpose of the statewide language access resource center is to:

- (1) Maintain a publicly available roster of language interpreters and translators, listing their qualifications and credentials based upon guidelines established by the office of language access in consultation with the language access advisory council;
- (2) Train state and state-funded agencies on how to effectively obtain and utilize the services of language interpreters and translators;
- (3) Support the recruitment and retention of language interpreters and translators providing services to state and state-funded agencies;
- (4) Provide, coordinate, and publicize training opportunities to increase the number and availability of qualified interpreters and translators and further develop their language interpretation and translation skills; and
- (5) Work toward identifying or creating a process to test and certify language interpreters and translators and promote use of the process to ensure the quality and accuracy of their services.

The establishment of multilingual websites for all state agencies may contribute greatly to the goal of providing limited English proficient individuals the ability to electronically access information about government services. This Act will enable the office of language access to administer a pilot project to test the utility and feasibility of this idea since the office of language access is the state agency that is the most directly involved in the promotion of language access.

This Act also appropriates funds needed to establish the statewide language access resource center and the multilingual website pilot project within the office of language access.

SECTION 2. (a) The office of language access, in collaboration with other state agencies, shall implement a multilingual website pilot project. The project shall:

- (1) Explore the utility and feasibility of creating a multilingual website to improve language access to information provided online for limited English proficient persons seeking information about government and government-funded services in the State; and
- (2) To the extent feasible, produce a multilingual website for use by the public for the twelve largest limited English proficient groups in the State.

(b) The multilingual website pilot project shall end on June 30, 2017. The office of language access shall submit a report detailing findings and recom-

mendations, including proposed legislation, regarding the pilot project to the legislature no later than twenty days prior to the convening of the regular session of 2017.

SECTION 3. Section 321C-6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§321C-6]]~~ Office of language access; established. ~~[(a)]~~ There is established within the department of health, for administrative purposes only, the office of language access. The head of the office shall be known as the executive director of the office of language access. The executive director shall be appointed by the governor without regard to chapter 76. The executive director shall:

- (1) Provide oversight, central coordination, and technical assistance to state agencies in their implementation of language access requirements under this chapter or under any other law, regulation, or guidance;
- (2) Provide technical assistance to covered entities in their implementation of this chapter;
- (3) Review and monitor each state agency's language access plan for compliance with this chapter;
- (4) Where reasonable access is not provided, endeavor to eliminate the language access barrier using informal methods ~~[such as]~~, including conference, conciliation, mediation, or persuasion. Where the language access barrier cannot be eliminated by informal methods, the executive director shall submit a written report with the executive director's opinion and recommendation to the state agency or the covered entity. The executive director may request the state agency or the covered entity to notify the executive director, within a specified time, of any action taken on the executive director's recommendation;
- (5) Consult with language access coordinators, the language access advisory council, and state department directors or their equivalent;
- (6) Subject to section 321C-3, create, distribute to the State, and make available to covered entities, multilingual signage in the more frequently encountered languages in the State, and other languages as needed, informing individuals of their right to free oral language services and inviting them to identify themselves as persons needing services; ~~[and]~~
- (7) Adopt rules pursuant to chapter 91 to address the language needs of limited English proficient persons~~[-];~~ and
- (8) Administer a statewide language access resource center that shall:
 - (A) Maintain a publicly available roster of language interpreters and translators, listing their qualifications and credentials based upon guidelines established by the office of language access in consultation with the language access advisory council;
 - (B) Train state and state-funded agencies on how to effectively obtain and utilize the services of language interpreters and translators;
 - (C) Support the recruitment and retention of language interpreters and translators providing services to state and state-funded agencies;
 - (D) Provide, coordinate, and publicize training opportunities to increase the number and availability of qualified language in-

interpreters and translators and further develop their language interpretation and translation skills; and

- (E) Work toward identifying or creating a process to test and certify language interpreters and translators and promote use of the process to ensure the quality and accuracy of the language interpretation and translation services.”

SECTION 4. The executive director of the office of language access shall have the authority to hire personnel necessary to staff the statewide language access resource center and to administer its multilingual website. The staff, at a minimum, shall consist of one full-time project coordinator, three full-time program specialists, and one full-time clerk. To the extent possible, the executive director shall hire bilingual personnel to staff the statewide language access resource center and to administer its website.

SECTION 5. The executive director of the office of language access shall consult with the office of information management and technology in developing the multilingual website pilot project to ensure that the project:

- (1) Is compatible with the State’s information technology infrastructure;
- (2) Leverages technology solutions to maximize staff efforts;
- (3) Meets current technology standards, including providing the proper Unicode language support; and
- (4) Provides the proper checks and balances to manage the cultural sensitivities and expectations of the website.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$170,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 to establish a statewide language access resource center within the office of language access to allow state agencies and covered entities to provide interpretation and translation services to limited English proficient individuals in accordance with Hawaii’s language access laws.

The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$80,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 to establish a multilingual website pilot project to enable limited English proficient individuals to obtain information about government services in their own language.

The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2013.

(Approved June 27, 2013.)

ACT 218

H.B. NO. 1430

A Bill for an Act Relating to Human Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that a center providing comprehensive services for deaf, hard of hearing, and deaf-blind individuals in Hawaii has been the dream of the deaf community in Hawaii since 1972. The creation of a comprehensive service center is intended to promote individual growth, social awareness, productivity, and equality by empowering deaf, hard of hearing, and deaf-blind individuals to be full participants in Hawaii's overall community.

The purpose of this Act is to appropriate funds to the department of human services to fund the establishment and operational costs of a comprehensive service center for deaf, hard of hearing, and deaf-blind individuals.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$400,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the establishment and operation of a comprehensive service center for the deaf, hard of hearing, and deaf-blind.

The sums appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved June 27, 2013.)

ACT 219

H.B. NO. 847

A Bill for an Act Relating to Enforcement Tools to Improve Patient Safety.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 453, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§453- Summary suspension. (a) The board may summarily suspend any license issued under this chapter upon a specific determination that the failure to take such an action may result in an immediate and unreasonable threat to personal safety or of fraud that jeopardizes or endangers the health or safety of patients as determined by the professional standards of care upon consumers, and that, for the protection of the public from the possible consequences of such practices, the license should be immediately suspended or restricted.

(b) The order of summary suspension shall include a brief statement of findings of fact and conclusions of law and shall be served upon the licensee as required by chapter 91. The order of summary suspension shall be effective upon service.

(c) A licensee served with an order of summary suspension shall have the right to request a hearing to show cause why the order of summary suspension should be terminated. Any request for a hearing shall be made in writing and filed with the board within five business days of service of the order. The board shall hold a hearing within seven business days of receipt of the licensee's request for the hearing to show cause.

(d) Notwithstanding any law to the contrary, an order summarily suspending a license issued under this chapter shall remain in effect until the effective date of a final decision and order issued by the board in a disciplinary action or the effective date of an order issued by the board terminating the summary suspension following a hearing to show cause, whichever occurs first, but in either case shall not exceed thirty business days.

(e) The board shall conduct a hearing for disciplinary action against a licensee whose license has been summarily suspended under this section within twenty business days from the effective date of the order of summary suspension.

(f) Any attempt by the licensee to continue the practice of medicine or the practice of medicine by the licensee while the license has been summarily suspended shall be grounds for revocation of the license and shall subject the licensee to any penalties prescribed under this chapter, the applicable licensing laws, or any rule or order of the board."

SECTION 2. Section 453-8, Hawaii Revised Statutes, is amended to read as follows:

"§453-8 Revocation, limitation, suspension, or denial of licenses. (a) In addition to any other actions authorized by law, any license to practice medicine and surgery may be revoked, limited, or suspended by the board at any time in a proceeding before the board, or may be denied, for any cause authorized by law, including but not limited to the following:

- (1) Procuring, or aiding or abetting in procuring, a criminal abortion;
- (2) Employing any person to solicit patients for one's self;
- (3) Engaging in false, fraudulent, or deceptive advertising, including but not limited to:
 - (A) Making excessive claims of expertise in one or more medical specialty fields;
 - (B) Assuring a permanent cure for an incurable disease; or
 - (C) Making any untruthful and improbable statement in advertising one's medical or surgical practice or business;
- (4) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or a habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
- (5) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
- (6) Procuring a license through fraud, misrepresentation, or deceit, or knowingly permitting an unlicensed person to perform activities requiring a license;
- (7) Professional misconduct, hazardous negligence causing bodily injury to another, or manifest incapacity in the practice of medicine[; osteopathy;] or surgery;
- (8) Incompetence or multiple instances of negligence, including but not limited to the consistent use of medical service, which is inappropriate or unnecessary;
- (9) Conduct or practice contrary to recognized standards of ethics of the medical profession as adopted by the Hawaii Medical Association, the American Medical Association, the Hawaii Association of Osteopathic Physicians and Surgeons, or the American Osteopathic Association;
- (10) Violation of the conditions or limitations upon which a limited or temporary license is issued;

- (11) Revocation, suspension, or other disciplinary action by another state or federal agency of a license, certificate, or medical privilege for reasons as provided in this section;
- (12) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a physician or osteopathic physician, notwithstanding any statutory provision to the contrary;
- (13) Violation of chapter 329, the uniform controlled substances act, or any rule adopted thereunder except as provided in section 329-122;
- (14) Failure to report to the board, in writing, any disciplinary decision issued against the licensee or the applicant in another jurisdiction within thirty days after the disciplinary decision is issued; or
- (15) Submitting to or filing with the board any notice, statement, or other document required under this chapter, which is false or untrue or contains any material misstatement or omission of fact.

(b) If disciplinary action related to the practice of medicine has been taken against the applicant in any jurisdiction that would constitute a violation under this section, or if the applicant reveals a physical or mental condition that would constitute a violation under this section, then the board may impose one or more of the following requirements as a condition for licensure:

- (1) Physical and mental evaluation of the applicant by a licensed physician or osteopathic physician approved by the board;
- (2) Probation, including conditions of probation as requiring observation of the licensee by an appropriate group or society of licensed physicians, osteopathic physicians, or surgeons;
- (3) Limitation of the license by restricting the fields of practice in which the licensee may engage;
- (4) Further education or training or proof of performance competency; and
- (5) Limitation of the medical practice of the licensee in any reasonable manner to assure the safety and welfare of the consuming public.

(c) Where the board has reasonable cause to believe that a licensee is or may be unable to practice medicine with reasonable skill and safety to protect patients, the board may order the licensee to submit to a mental or physical examination or any combination thereof, by a licensed practitioner approved by the board, at the licensee's expense. The examination may include biological fluid testing and other testing known to detect the presence of alcohol or other drugs. In addition:

- (1) Any licensee shall be deemed to have consented to submit to a mental or physical examination when so directed by the board and to have waived all objection to the use or referral of information by the board to determine whether the licensee is able to practice medicine with reasonable skill and safety to protect patients;
- (2) The board may seek to enforce an order directing a licensee to submit to a mental or physical examination in the circuit court in the county in which the licensee resides;
- (3) Failure of a licensee to submit to an examination ordered under this subsection shall constitute grounds for summary suspension of the licensee's license; and
- (4) The board may take any action authorized under this chapter based on information obtained under this subsection.

(d) Any person licensed by the board, including a physician, surgeon, or physician assistant, who provides information to the board indicating that a board licensee may be guilty of unprofessional conduct or may be impaired be-

cause of drug or alcohol abuse or mental illness shall not be liable for any damages in any civil action based on the communication. The immunity afforded by this section shall be in addition to any immunity afforded by section 663-1.7, if applicable, and shall not be construed to affect the availability of any absolute privilege under sections 663-1.7 and 671D-10."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 4. This Act, upon its approval, shall take effect on July 1, 2013.

(Approved June 27, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 220

S.B. NO. 1074

A Bill for an Act Relating to Physical Therapy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 461J, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§461J- Physical therapist assistant license without necessity of examination. Any applicant who submits proof of graduation from an accredited physical therapist assistant program or an accredited physical therapy program recognized by the United States Department of Education, and five years of work experience as a physical therapist assistant by December 31, 2014, may be licensed as a physical therapist assistant under this chapter without the necessity of examination.

§461J- Physical therapist use of support or auxiliary personnel. (a) A physical therapist may use support or auxiliary personnel, including licensed physical therapist assistants, to assist the physical therapist in the practice of physical therapy; provided that the support or auxiliary personnel shall:

- (1) Perform only the duties prescribed in the rules of the board; and
- (2) Perform these duties under the supervision and direction of a physical therapist.

(b) Physical therapists and physical therapist assistants shall provide proof of compliance with this section upon written request from the board."

SECTION 2. Section 461J-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:

"Physical therapist assistant" means a person who is licensed as a physical therapist assistant in the State and assists the physical therapist in selected components of treatment or intervention."

2. By amending the definition of "physical therapy" or "physical therapy services" to read:

“Physical therapy” or “physical therapy services” means the examination, treatment, and instruction of human beings to detect, assess, prevent, correct, alleviate, and limit physical disability, bodily malfunction, pain from injury, disease, and any other physical or mental condition as performed by a physical therapist appropriately licensed under this chapter. It includes but is not limited to:

- (1) Administration, evaluation, modification of treatment, and instruction involving the use of physical measures, activities, and devices, for preventive and therapeutic purposes; provided that should the care or treatment given by a physical therapist or physical therapist assistant contravene treatment diagnosed or prescribed by a medical doctor, osteopath, or as determined by the board, the physical therapist shall confer with the professional regarding the manner or course of treatment in conflict and take appropriate action in the best interest of the patient; and
- (2) The provision of consultative, educational, and other advisory services for the purpose of reducing the incidence and severity of physical disability, bodily malfunction, or pain.”

SECTION 3. Section 461J-2, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§461J-2~~]] Practice of physical therapy; qualifications.~~ (a) No person shall practice physical therapy gratuitously or for pay, offer to practice physical therapy, offer physical therapy or physical therapy services, or represent, advertise, or announce, either publicly or privately, that the person is a physical therapist or physiotherapist, unless the person is appropriately licensed under this chapter.

(b) No person shall use, in connection with the person’s name or business, the words “licensed physical therapist”, “physical therapist”, or “physiotherapist”, or the letters “RPT”, “LPT”, “DPT”, “PT”, or any other words, letters, abbreviations, or insignia indicating or implying that the person is a physical therapist, unless the person is appropriately licensed as a physical therapist under this chapter.

(c) No person shall use the title “physical therapist assistant”, the letters “PTA”, or any other words, abbreviations, or insignia in connection with that person’s name to indicate or imply, directly or indirectly, that the person is a physical therapist assistant unless that person is appropriately licensed as a physical therapist assistant under this chapter.

~~[(e)]~~ (d) No person shall practice as a physical therapist or as a physical therapist assistant, except as licensed pursuant to this chapter and under the administrative rules ~~[and regulations]~~ determined by the board in accordance with chapter 91.”

SECTION 4. Section 461J-3, Hawaii Revised Statutes, is amended to read as follows:

“§461J-3 Exemptions. (a) Nothing in this chapter shall be construed to prohibit any person from acting within the scope of a license issued to that person under any other law; provided that the person shall not claim to be a physical therapist or a physical therapist assistant, or that the person is performing physical therapy or physical therapy services.

(b) Nothing in this chapter shall be construed to prohibit students in an educational program for physical therapists, physical therapist assistants, or

physical therapist support personnel from participating in activities that are conducted as part of the educational program and are under the guidance and direct supervision of a licensed physical therapist.

(c) [A] Nothing in this chapter shall be construed to prohibit a person licensed [to practice] as a physical [therapy by any other] therapist or as a physical therapist assistant in another state or [by a] foreign country [may practice] from practicing physical therapy in this State if the person is part of an educational demonstration or instructional program or seminar sponsored by an educational institution, hospital, medical care program, the Hawaii Chapter of the American Physical Therapy Association, or any other similar person or group, for the duration of the program or seminar and confined to the purpose of the program or seminar.

(d) Nothing in this chapter shall be construed to prohibit [a certified] an individual from acting as an athletic trainer [as recognized by the National Athletic Trainers Association from performing within the scope of such certification; nor shall it be construed to prohibit any person employed as an athletic trainer in any public or private educational institution from administering hot packs, whirlpool, and cold packs, protective taping, and basic first aid intervention, or from acting under the direct supervision of a certified athletic trainer or team physician; provided that the services are performed on regularly enrolled students, that the students are engaged in or are eligible to engage in institutionally sponsored athletic events, and that in no case shall the person claim to be a physical therapist or claim to be performing physical therapy.] under chapter 436H.

(e) Nothing in this chapter shall be construed to prohibit a [duly licensed physical therapist from using support or auxiliary personnel to assist the physical therapist in the practice of physical therapy; provided that such support or auxiliary personnel shall perform only those duties that they are qualified to perform as allowed by the rules defining scope of practice adopted by the board; and provided further that such support or auxiliary personnel shall perform these duties under the supervision and direction of a physical therapist.] physical therapist or physical therapist assistant who is practicing in the United States Armed Services, United States Public Health Service, or Department of Veteran Affairs pursuant to federal regulations for state licensure of healthcare providers from practicing as a physical therapist or physical therapist assistant; provided that if the person, while federally employed as a physical therapist or a physical therapist assistant, engages in the practice of physical therapy outside the course and scope of the person's federal employment, the person shall be required to obtain a license in accordance with this chapter.

(f) Nothing in this chapter shall be construed to prohibit a physical therapist who is licensed in a jurisdiction of the United States or another country from engaging in the practice of physical therapy if that person by contract or employment is providing physical therapy to individuals affiliated with or employed by established athletic teams, athletic organizations, or performing arts companies that temporarily practice, compete, or perform in the State for no more than sixty days in a calendar year."

SECTION 5. Section 461J-4, Hawaii Revised Statutes, is amended to read as follows:

"§461J-4 Board of physical therapy; establishment, appointment, membership. (a) There is established within the department of commerce and consumer affairs for administrative purposes the board of physical therapy. The board shall consist of seven members. Four members shall be physical therapists,

one member shall be a ~~[physician, osteopathic physician, or surgeon with a permanent license under chapter 453, or a dentist with a permanent license under chapter 448,]~~ physical therapist assistant, and two members shall be consumers. All members shall be at least eighteen years of age and residents of the State.

(b) Each physical therapist member of the board shall possess a valid permanent license as a physical therapist and shall have, after graduation from a school of physical therapy, at least three years of full-time experience or the equivalent in any of the following areas or in any combination of the following: clinical physical therapy services, administration in physical therapy or related health fields, or teaching in an educational program to prepare practitioners of physical therapy.

(c) The physical therapist assistant member of the board shall possess a valid permanent license as a physical therapist assistant and shall have, after graduation from an accredited physical therapist assistant program or an accredited physical therapy program, at least three years of full-time experience.

~~(e)~~ (d) The governor may appoint and fill each vacancy on the board pursuant to section 26-34.”

SECTION 6. Section 461J-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) An applicant for a permanent license to practice as a physical [ther-
apy] therapist or physical therapist assistant shall submit proof of educational qualifications and any other information required by the board on an application form prescribed by the board. The board shall maintain a current list of schools of physical therapy ~~[which]~~ that are approved by an agency recognized by the United States Department of Education or Council on Postsecondary Accreditation.

In the case of foreign-trained persons, the board shall establish procedures for assessing the education and training to determine in each case whether it is equivalent to that of applicants trained in the United States.”

SECTION 7. Upon the issuance of a new license under section 461J-6, Hawaii Revised Statutes, as amended by this Act, and at each license renewal period, each physical therapist assistant shall pay, in addition to the license fee or renewal fee, a surcharge of \$100, which shall be maintained in a separate account within the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes. At the end of each quarter, the moneys contained in the separate account established pursuant to this section shall be transferred to the compliance resolution fund until the total of the transferred amounts equals the amount appropriated in section 8 of this Act. Thereafter, no surcharge shall be assessed, and any funds in excess of the amount appropriated in section 8 of this Act shall be deposited into the compliance resolution fund.

SECTION 8. There is appropriated out of the compliance resolution fund established pursuant to section 26-9(o), Hawaii Revised Statutes, the sum of \$40,000 or so much thereof as may be necessary, for fiscal year 2014-2015 to implement the licensure of physical therapist assistants as required by this Act.

The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 10. This Act shall take effect upon its approval; provided that:

- (1) The board of physical therapy shall adopt rules pursuant to section 461J-5, Hawaii Revised Statutes, implementing the licensure requirement under this Act no later than December 1, 2014;
 - (2) A physical therapist assistant may practice without a license until November 30, 2014, or the effective date of rules implementing licensure requirements by the board of physical therapy, whichever occurs first; and
 - (3) Section 8 of this Act shall take effect on July 1, 2014.
- (Approved June 27, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 221

S.B. NO. 310

A Bill for an Act Relating to Mental Health Treatment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that:

- (1) Hawaii has identified serious problems of high incarceration and hospitalization rates of those with severe mental illness;
- (2) Assisted community treatment provides an opportunity for people with severe mental illness to be treated in the least restrictive setting; and
- (3) Assisted community treatment reduces the trend towards criminalizing mental illness.

Individuals with severe mental illness often cycle between homelessness, emergency room treatment, incarceration, and hospitalization. This situation reflects a failure to provide needed treatment to persons who may need it most and that failure is extremely costly. However, the legislature finds that the situation can be mitigated if individuals are assisted in being treated in the community.

In several states that have implemented assisted community treatment, research shows that hospitalization rates have dropped by half, the length of hospital stays has been reduced by up to thirty days per patient, arrest rates have declined by up to two-thirds, and days spent in correctional confinement facilities have been reduced by seventy-two per cent. Moreover, patients in one state program, despite having violent histories, were found to be four times less likely to perpetrate serious violence after being in an assisted community treatment program.

The purpose of this Act is to establish an assisted community treatment program.

SECTION 2. Chapter 334, part VIII, Hawaii Revised Statutes, is amended by amending its title to read as follows:

“PART VIII. [INVOLUNTARY OUTPATIENT] ASSISTED COMMUNITY TREATMENT”

SECTION 3. Section 334-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to read:

““Law enforcement officer” shall have the meaning provided in section 710-1000.”

2. By amending the definition of “dangerous to self” to read:

“Dangerous to self” means the person recently has ~~[threatened];~~

(1) Threatened or attempted suicide or serious bodily harm; or ~~[the person recently has behaved]~~

(2) Behaved in such a manner as to indicate that the person is unable, without supervision and the assistance of others, to satisfy the need for nourishment, essential medical care, shelter or self-protection, so that it is probable that death, substantial bodily injury, or serious physical debilitation or disease will result unless adequate treatment is afforded.”

3. By deleting the definitions of “gravely disabled” and “obviously ill”.

~~““Gravely disabled” means a condition in which a person, as a result of a mental disorder, (1) is unable to provide for that individual’s basic personal needs for food, clothing, or shelter; (2) is unable to make or communicate rational or responsible decisions concerning the individual’s personal welfare; and (3) lacks the capacity to understand that this is so.~~

~~“Obviously ill” means a condition in which a person’s current behavior and previous history of mental illness, if known, indicate a disabling mental illness, and the person is incapable of understanding that there are serious and highly probable risks to health and safety involved in refusing treatment, the advantages of accepting treatment, or of understanding the advantages of accepting treatment and the alternatives to the particular treatment offered, after the advantages, risks, and alternatives have been explained to the person.”]~~

SECTION 4. Section 334-59, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

“(a) Initiation of proceedings. An emergency admission may be initiated as follows:

(1) If a ~~[police]~~ law enforcement officer has reason to believe that a person is imminently dangerous to self or others, ~~[or is gravely disabled, or is obviously ill,]~~ the officer shall call for assistance from the mental health emergency workers designated by the director. Upon determination by the mental health emergency workers that the person is imminently dangerous to self or others, ~~[or is gravely disabled, or is obviously ill,]~~ the person shall be transported by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A ~~[police]~~ law enforcement officer may also take into custody and transport to any facility designated by the director any person threatening or attempting suicide~~[-]~~, or may take into custody and transport to any designated mental health program, any person subject to an assisted community treatment order, issued pursuant to part VIII of this chapter, for further evaluation and possible emergency hospitalization. The officer shall make application for the examination, observation, and diagnosis of the person in custody. The application shall state or shall be accompanied by a statement of the circumstances under which the person was taken into custody and the reasons therefor which shall be transmitted with the person to a physician or psychologist at the facility~~[-]~~, or to a licensed psychiatrist at a designated mental health program.

- (2) Upon written or oral application of any licensed physician, psychologist, attorney, member of the clergy, health or social service professional, or any state or county employee in the course of employment, a judge may issue an ex parte order orally, but shall reduce the order to writing by the close of the next court day following the application, stating that there is probable cause to believe the person is mentally ill or suffering from substance abuse~~;~~ or is imminently dangerous to self or others~~;~~ ~~or is gravely disabled, or is obviously ill;~~ and in need of care or treatment, or both, giving the findings ~~[on]~~ upon which the conclusion is based, and directing that a ~~[police]~~ law enforcement officer or other suitable individual take the person into custody and deliver the person to the nearest facility designated by the director for emergency examination and treatment. The ex parte order shall be made a part of the patient's clinical record. If the application is oral, the person making the application shall reduce the application to writing and shall submit the same by noon of the next court day to the judge who issued the oral ex parte order. The written application shall be executed subject to the penalties of perjury but need not be sworn to before a notary public.
- (3) Any licensed physician, physician assistant, or psychologist who has examined a person and has reason to believe the person is:
 - (A) Mentally ill or suffering from substance abuse;
 - (B) Imminently dangerous to self or others~~;~~ ~~or is gravely disabled, or is obviously ill;~~ and
 - (C) In need of care or treatment;
 may direct transportation, by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A licensed physician or physician assistant may administer treatment as is medically necessary, for the person's safe transportation. A licensed psychologist may administer treatment as is psychologically necessary.
 - (b) Emergency examination. A patient who is delivered for emergency examination and treatment to a facility designated by the director shall be examined by a licensed physician without unnecessary delay, and may be given such treatment as is indicated by good medical practice. A psychiatrist or psychologist may further examine the patient to diagnose the presence or absence of a mental disorder, assess the risk that the patient may be dangerous to self or others, ~~[or is gravely disabled, or is obviously ill,]~~ and assess whether or not the patient needs to be hospitalized."
 2. By amending subsection (d) to read:

"(d) Emergency hospitalization. If the physician or the psychologist who performs the emergency examination has reason to believe that the patient is:

 - (1) Mentally ill or suffering from substance abuse;
 - (2) Imminently dangerous to self or others~~;~~ ~~or is gravely disabled, or is obviously ill;~~ and
 - (3) In need of care or treatment, or both;
 the physician or the psychologist may direct that the patient be hospitalized on an emergency basis or cause the patient to be transferred to another psychiatric facility for emergency hospitalization, or both. The patient shall have the right immediately upon admission to telephone the patient's guardian or a family member including a reciprocal beneficiary, or an adult friend and an attorney. If the patient declines to exercise that right, the staff of the facility shall inform the

adult patient of the right to waive notification to the family including a reciprocal beneficiary, and shall make reasonable efforts to ensure that the patient's guardian or family including a reciprocal beneficiary, is notified of the emergency admission but the patient's family including a reciprocal beneficiary, need not be notified if the patient is an adult and requests that there be no notification. The patient shall be allowed to confer with an attorney in private."

SECTION 5. Section 334-60.2, Hawaii Revised Statutes, is amended to read as follows:

"§334-60.2 Involuntary hospitalization criteria. A person may be committed to a psychiatric facility for involuntary hospitalization, if the court finds:

- (1) That the person is mentally ill or suffering from substance abuse;
- (2) That the person is imminently dangerous to self or others [~~is gravely disabled or is obviously ill~~]; and
- (3) That the person is in need of care or treatment, or both, and there is no suitable alternative available through existing facilities and programs which would be less restrictive than hospitalization."

SECTION 6. Section 334-60.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (d) to read:

"(d) Hearings may be held at any convenient place within the circuit. The subject of the petition, any interested [~~person~~] party, or the court on its own motion may request a hearing in another circuit because of convenience to the parties, witnesses, or the court or because of the individual's mental or physical condition."

2. By amending subsections (i) and (j) to read:

"(i) If after hearing all relevant evidence, including the result of any diagnostic examination ordered by the court, the court finds that an individual is not a person requiring medical, psychiatric, psychological, or other rehabilitative treatment or supervision, the court shall order that the individual be discharged if the individual has been hospitalized prior to the hearing.

(j) If the court finds that the criteria for involuntary hospitalization under section 334-60.2(1) has been met beyond a reasonable doubt and that the criteria under sections 334-60.2(2) and 334-60.2(3) have been met by clear and convincing evidence, the court may issue an order to any [~~police~~] law enforcement officer to deliver the subject to a facility that has agreed to admit the subject as an involuntary patient, or if the subject is already a patient in a psychiatric facility, authorize the facility to retain the patient for treatment for a period of ninety days unless sooner discharged. The court may also authorize the involuntary administration of medication, where the subject has an existing order for assisted community treatment, issued pursuant to part VIII of this chapter, relating to assisted community treatment, and in accordance with the treatment prescribed by that prior order. An order of commitment shall specify which of those persons served with notice pursuant to section 334-60.4, together with such other persons as the court may designate, shall be entitled to receive any subsequent notice of intent to discharge, transfer, or recommit.

~~[(j)]~~ (k) The court may find that the subject of the petition is an incapacitated or protected person, or both, under article V of chapter 560, and may appoint a guardian or conservator, or both, for the subject under the terms and conditions as the court shall determine."

SECTION 7. Section 334-121, Hawaii Revised Statutes, is amended to read as follows:

“§334-121 Criteria for ~~[involuntary outpatient]~~ assisted community treatment. A person may be ordered to obtain ~~[involuntary outpatient]~~ assisted community treatment if the family court finds that:

- (1) The person is ~~[suffering from a severe mental disorder or]~~ mentally ill or suffering from substance abuse; and
- (2) The person is ~~[capable of surviving]~~ unlikely to live safely in the community ~~[with]~~ without available supervision ~~[from family, friends, or others;]~~ based on the professional opinion of a psychiatrist; and
- (3) The person, at some time in the past: (A) has received inpatient hospital treatment for ~~[a severe]~~ mental [disorder] illness or substance abuse~~[-]~~ or (B) has been ~~found to be~~ imminently dangerous to self or others, ~~[or is gravely disabled;]~~ as a result of ~~[a severe]~~ mental [disorder] illness or substance abuse; and
- (4) The person, based on the person's treatment history and current ~~[behavior;]~~ condition, is now in need of treatment in order to prevent a relapse or deterioration which would predictably result in the person becoming imminently dangerous to self or others; and
- (5) The person has a history of a lack of adherence to treatment for mental illness or substance abuse, and the person's current mental status or the nature of the person's disorder limits or negates the person's ability to make an informed decision to voluntarily seek or comply with recommended treatment; and
- (6) ~~[There is a reasonable prospect that the outpatient]~~ The assisted community treatment [ordered will be beneficial to the person-] is medically appropriate, and in the person's medical interests; and
- (7) Considering less intrusive alternatives, assisted community treatment is essential to prevent the danger posed by the person.”

SECTION 8. Section 334-122, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§334-122]]~~ Definitions. For the purposes of this part:

~~“Outpatient”~~ “Assisted community treatment” includes medication specifically authorized by court order; individual or group therapy; day or partial day programming activities; services and training, including educational and vocational activities; supervision of living arrangements; and any other services prescribed to either alleviate the person's disorder or disability, ~~[to]~~ maintain or maximize semi-independent functioning, or ~~[to]~~ prevent further deterioration that may reasonably be predicted to result in the need for hospitalization~~[-]~~ or more intensive or restrictive levels of care in the community or incarceration for criminal behavior.

“Designated mental health program” includes a state-operated or private provider who is authorized to provide mental health services, including but not limited to inpatient treatment, outpatient treatment, case management, day treatment, or crisis services.

“Interested party” means a parent, grandparent, spouse, sibling, adult child, reciprocal beneficiary, service provider, case manager, outreach worker, or mental health professional.

“Outpatient treatment psychiatrist” means the psychiatrist who is responsible for the management and supervision of a person's outpatient treatment under order of the court.]

“Subject of the order” means a person who has been ordered by the court to obtain ~~[outpatient]~~ assisted community treatment.

“Subject of the petition” means the person who, under a petition filed under section 334-123, is alleged to meet the criteria for ~~[involuntary-outpatient]~~ assisted community treatment.

“Treating psychiatrist” means the psychiatrist who is responsible for the management and supervision of a person’s treatment under order of the court.”

SECTION 9. Section 334-123, Hawaii Revised Statutes, is amended to read as follows:

“§334-123 [Petition.] Initiation of proceeding for assisted community treatment. (a) Any ~~[person]~~ interested party may file a petition with the family court alleging that another person meets the criteria for ~~[involuntary-outpatient]~~ assisted community treatment. The petition shall state:

- (1) Each of the criteria numbered (1) through ~~[(6)]~~ (7) for ~~[involuntary-outpatient]~~ assisted community treatment, as set out in section 334-121;
- (2) Petitioner’s good faith belief that the subject of the petition meets each of the¹ criteria numbered (1) through ~~[(4)]~~ (7) set forth in section 334-121;
- (3) Facts which support petitioner’s good faith belief that the subject of the petition meets each of the criteria numbered (1) through ~~[(4)]~~ (7) set forth in section 334-121~~[-, provided that the hearing on the petition need not be limited to the stated facts];~~ and
- (4) ²The subject of the petition is present within the county where the petition is filed.

The hearing on the petition need not be limited to the facts stated in the petition. The petition shall be executed subject to the penalties of perjury. ~~[The petition need not express any belief, or state any supporting facts, with reference to the criteria set forth in section 334-121(5) and (6), but all six criteria will be addressed at the hearing.]~~

(b) The petition may~~[-, but need not,]~~ be accompanied by ~~[any statement]~~ a certificate of a licensed psychiatrist ~~[or other mental health professional]~~ who has examined the subject of the petition at any time prior to the submission of the petition.

(c) If the subject of the petition has refused to submit to examination by a licensed psychiatrist, the fact of the refusal shall be alleged in the petition.”

SECTION 10. Section 334-124, Hawaii Revised Statutes, is amended to read as follows:

“[§334-124] Hearing date. The family court shall set a hearing date on a petition as soon as possible, but within ten days after filing of the petition.”

SECTION 11. Section 334-125, Hawaii Revised Statutes, is amended to read as follows:

“§334-125 Notice. (a) Notice of the hearing shall be:

- (1) Served personally on the subject of the petition pursuant to family court rules; and
- (2) ~~[Delivered]~~ Served personally or ~~[mailed]~~ by certified or registered mail, return receipt requested, deliverable to the addressee only, to as many as are known to the petitioner of the subject’s spouse or

reciprocal beneficiary, legal parents, adult children, and legal guardian, if one has been appointed~~[- Petitioner shall certify that such notices have been mailed, and to whom, but proof of receipt of such notices is not required. Notice shall also be served on any other person that the court designates.];~~

(3) Served on the public defender, attorney for the subject of the petition, or other court appointed attorney as applicable; and

(4) Given to such other persons as the court may designate.

(b) The notice shall include the following:

(1) The date, time, place of hearing, a clear statement of the purpose of the ~~[hearing]~~ proceedings and possible consequences to the subject, and a statement of the legal standard upon which ~~[involuntary outpatient]~~ assisted community treatment is [authorized;] being considered;

(2) A copy of the petition; ~~[and]~~

(3) Notice that the subject of the petition is entitled to ~~[be represented by]~~ the assistance of an attorney, and that the ~~[court will appoint a public defender or other attorney for the subject if the subject desires one and is indigent.]~~ public defender has been notified of these proceedings; and

(4) Notice that if the subject does not want to be represented by the public defender, the subject may contact the subject's own attorney.

~~[(e) The family court may continue a hearing for failure to timely notify or a person entitled to be noticed.]”~~

SECTION 12. Section 334-126, Hawaii Revised Statutes, is amended to read as follows:

“[H§334-126] Hearing~~[-]~~ on petition. (a) The court may adjourn or continue a hearing for failure to timely notify a person entitled to be notified.

~~[(a)]~~ (b) The time and form of the procedure incident to hearing the issues in the petition shall be provided by family court rule and consistent with this part.

~~[(b) The hearing]~~ (c) Hearings may be held at any convenient place within the circuit. The subject of the petition, any interested ~~[person,]~~ party, or the family court upon its own motion may request a hearing in another court because of inconvenience to the parties, witnesses, or the family court or because of the subject's physical or mental condition.

~~[(e)]~~ (d) The hearing shall be closed to the public, unless the subject of the petition requests otherwise.

~~[(d)]~~ (e) The subject of the petition shall be present at the hearing. However, if the subject has been served with the petition and does not appear at the hearing, the court, in its discretion, may go forward with the hearing.

~~[(e)]~~ (f) The subject of the petition need not, but may, be represented by an attorney. If the subject desires an attorney and is indigent, or if the family court determines that the legal or factual issues raised are of such complexity that the assistance of an attorney is necessary for an adequate presentation of the merits or that the subject of the petition is unable to speak for the subject's self, the family court shall order the appointment of a public defender or other attorney to represent the subject and continue the hearing for not more than ~~[five]~~ seven days.

~~[(f)]~~ (g) If the subject of the petition is represented by an attorney, the attorney shall be allowed adequate time for investigation of the matters at issue and ~~for preparation[- The attorney], and~~ shall be permitted to present the

evidence ~~[believed]~~ that the attorney believes necessary for a proper disposition of the proceeding.

~~[(g)] (h)~~ No subject of the petition shall be ordered to receive ~~[involuntary outpatient]~~ assisted community treatment unless at least one psychiatrist testifies in person at the hearing who has personally ~~[examined]~~ assessed the subject within the time period commencing ~~[five]~~ ten calendar days before the filing of the petition and ending at the time of the psychiatrist's testimony. The psychiatrist's testimony shall state the facts which support the allegation that the subject meets all the criteria for ~~[involuntary outpatient]~~ assisted community treatment, ~~[the recommended outpatient]~~ provide a written treatment[- and] plan, which shall include non-mental health treatment if appropriate, provide the rationale for the recommended [outpatient] treatment[-], and identify the designated mental health program responsible for the coordination of care.

If the recommended ~~[outpatient]~~ assisted community treatment includes medication, the psychiatrist's testimony shall describe the types or classes of ~~[medication(s)]~~ medication which should be authorized, and describe the physical and mental beneficial and detrimental effects of such ~~[medication(s)-]~~ medication.

If the subject of the petition has refused to be examined by a licensed psychiatrist, the family court may request the subject to consent to examination by a psychiatrist appointed by the court or employed at a community mental health center. If the subject of the petition does not consent and the family court finds sufficient evidence to believe that the allegations in the petition are true, the family court may order the commitment of the subject to a psychiatric facility for examination. The commitment shall not be for more than ~~[twenty-four]~~ forty-eight hours. The examining psychiatrist shall submit the findings and recommendations to the family court~~[-]~~ in the form of a written treatment plan.

The subject of the petition's refusal to submit voluntarily to examination shall be treated as a denial that the subject is ~~[suffering from a severe mental disorder or]~~ mentally ill or suffering from substance abuse, and a denial that the subject otherwise fits within the criteria for a court order of ~~[involuntary outpatient]~~ assisted community treatment.

Nothing herein shall be construed in a way that limits the subject of the petition's privilege against self-incrimination.

~~[(h)] (i)~~ The subject of the petition may secure ~~[one or more]~~ a psychiatric ~~[examinations]~~ examination and present the findings as evidence at the hearing. The subject shall be entitled to a psychiatric examination at a community mental health center if the subject so desires, and if an examination has not already been conducted at a community mental health center which will lead to psychiatric testimony at the hearing."

SECTION 13. Section 334-127, Hawaii Revised Statutes, is amended to read as follows:

"[H§334-127H] Disposition. (a) If after hearing all relevant evidence, including the results of ~~[an]~~ any diagnostic examination ordered by the family court, the family court finds that the subject of the petition does not meet the criteria for ~~[involuntary outpatient]~~ assisted community treatment, the family court shall dismiss the petition.

(b) If after hearing all relevant evidence, including the results of ~~[an]~~ any diagnostic examination ordered by the family court, the family court finds ~~[by clear and convincing evidence that the subject of the petition meets the criteria for involuntary outpatient treatment,]~~ that the criteria for assisted community treatment under section 334-121(1) has been met beyond a reasonable doubt

and that the criteria under sections 334-121(2) to 334-121(7) have been met by clear and convincing evidence, the family court shall order the subject to obtain [outpatient] assisted community treatment for a period of not more than [180] one hundred eighty days. [The order shall also state the outpatient treatment which the subject is to obtain.] The written treatment plan submitted pursuant to section 334-126(h) shall be attached to the order and made a part of the order.

If the family court finds by clear and convincing evidence that the beneficial mental and physical effects of recommended [medication(s)] medication outweigh the detrimental mental and physical effects, if any, the order may authorize types or classes of [medication(s)] medication to be included in [outpatient] treatment [in] at the discretion of the [outpatient treatment] treating psychiatrist.

The court order shall also state who should receive notice of intent to [early] discharge early in the event that the [outpatient treatment] treating psychiatrist determines, prior to the end of the court ordered period of treatment, that the subject should be [early] discharged early from [outpatient involuntary] assisted community treatment.

(c) The family court shall also designate on the order the [outpatient treatment] treating psychiatrist who is to be responsible for the management and supervision of the subject's [outpatient] treatment, or shall [designate] assign an administrator of a [community] designated mental health [center] program to, in turn, designate [such an outpatient treatment] the treating psychiatrist during the treatment period without court approval, and may designate either a publicly employed psychiatrist, or a private psychiatrist, provided that the private psychiatrist shall agree to the designation. The order for assisted community treatment shall be subject to the Health Care Privacy Harmonization Act, codified as chapter 323B.

(d) Nothing in this section shall preclude the subject's stipulation to the continuance an existing court order."

SECTION 14. Section 334-128, Hawaii Revised Statutes, is amended to read as follows:

"[H§334-128]] Treatment costs and fees. Private treatment pursuant to the court order shall be at the expense of the subject of the petition, except to the extent such charges are covered by other laws or programs. Treatment through a [community] designated mental health [center] program shall be pursuant to its fee schedules; however, the subject of the order shall not be denied treatment by a [community] designated mental health [center] program for failure to pay [such] the fees."

SECTION 15. Section 334-129, Hawaii Revised Statutes, is amended to read as follows:

"[H§334-129]] Failure to comply with [outpatient] assisted community treatment. (a) [An outpatient treatment] A treating psychiatrist may prescribe or administer to the subject of the order reasonable and appropriate medication[,] or medications, if specifically authorized by the court order, and treatment which is consistent with accepted medical standards and the family court order[.], including the written treatment plan submitted pursuant to section 334-126(h).

(b) No subject of the order shall be physically forced to take medication [or forcibly detained for treatment] under a family court order for [involuntary outpatient treatment.] assisted community treatment, except in accordance with

section 334-60.5, relating to admission to a psychiatric facility, subsequent to the date of the current assisted community treatment order.

(c) A subject may be transported to a designated mental health program for failure to comply with an order for assisted community treatment via the following methods:

(1) By an interested party with the consent of the subject of the order;
or

(2) In accordance with section 334-59.

[e] (d) The [outpatient treatment] treating psychiatrist or psychiatrist's designee shall make all reasonable efforts to solicit the subject's compliance with the prescribed treatment. If the subject fails or refuses to comply after the efforts to solicit compliance, the [outpatient treatment] treating psychiatrist shall [so notify the court and may submit a petition under] assess whether the subject of the order meets criteria for admission to a psychiatric facility under part IV [for the involuntary hospitalization of the subject,] of this chapter, and proceed with the admission; provided that the refusal of treatment shall not, by itself, constitute [evidence toward any of the criteria] a basis for involuntary hospitalization."

SECTION 16. Section 334-130, Hawaii Revised Statutes, is amended to read as follows:

"[H]§334-130[H] [Discharge.] Period of assisted community treatment. (a) The assisted community treatment order shall continue to apply to the subject, for the duration specified in the order, regardless of whether the treatment setting changes.

[An outpatient] (b) A subject of assisted community treatment is automatically and fully discharged at the end of the family court ordered period of [outpatient] treatment, a period of not more than [180] one hundred eighty days, unless a new family court order has been obtained as provided hereinbelow.

(c) Nothing in this section shall preclude the subject's stipulation to the continuance an existing court order."

SECTION 17. Section 334-131, Hawaii Revised Statutes, is amended to read as follows:

"[H]§334-131[H] Early Notice of intent to discharge. [(a)] [An outpatient treatment] When the treating psychiatrist [shall commence the early] contemplates discharge [procedure] for a subject of the order [if the outpatient treatment psychiatrist finds that the subject no longer meets the criteria for involuntary outpatient treatment.] because of expiration of the court order or because the subject of the order is no longer a proper subject for assisted community treatment, as determined by the criteria in section 334-121, the treating psychiatrist shall provide notice of intent to discharge.

(b) [The outpatient treatment psychiatrist shall send to the clerk of the] The notice shall be filed with the¹ family court which issued the order for [involuntary outpatient] assisted community treatment, [notification that in the psychiatrist's opinion the subject of the order should be discharged prior to the end of the period specified in the court order.] and served by personal service or by certified mail on those persons whom the order for assisted community treatment specifies as entitled to receive notice.

(c) [The clerk of the court shall then prepare and mail to the persons whom the family court order specified are entitled thereto, a notice of intent of early discharge.] The notice of intent [of]³ to discharge shall be mailed at least [five] ten days prior to the intended date of discharge.

~~[(b)] (d)~~ If no objection is filed under section 334-132 ~~[within five days of the mailing of notice,]~~ prior to the intended date of discharge, the ~~[family court shall enter an order of discharge, and]~~ subject of the order is thereupon fully discharged from ~~[involuntary outpatient]~~ assisted community treatment ~~[and the clerk of the family court shall promptly so notify the subject of the order].~~"

SECTION 18. Section 334-132, Hawaii Revised Statutes, is amended to read as follows:

~~[[§334-132]]~~ Objection to discharge. ~~[Any]~~ (a) If any person ~~[who has received a]~~ specified as entitled to receive notice ~~[of intent to early discharge a subject of the order may file an]~~ files a written objection with the family court~~[- Upon receipt of an objection,]~~ on the grounds that the subject of the order is a proper subject for assisted community treatment, the family court shall ~~[hold]~~ conduct a hearing ~~[on the discharge.]~~ to determine if the subject of the order still meets the criteria for assisted community treatment in section 334-121. The hearing shall be conducted as provided under section 334-134.

(b) If the family court finds ~~[by clear and convincing evidence]~~ that the subject of the order continues to meet the criteria for ~~[involuntary outpatient]~~ assisted community treatment~~[-]~~ in section 334-121, the family court shall order the subject to continue the ~~[outpatient]~~ treatment for the unexpired period of its earlier order.

(c) If the family court finds that the subject of the order does not meet the criteria for ~~[involuntary outpatient]~~ assisted community treatment~~[-]~~ in section 334-121, the ~~[family]~~ court shall dismiss the objection and order the early discharge of the subject."

SECTION 19. Section 334-133, Hawaii Revised Statutes, is amended to read as follows:

~~[[§334-133]]~~ Petition for additional period treatment; hearing. (a) Prior to the expiration of the period of ~~[involuntary outpatient]~~ assisted community treatment ordered by the family court, any ~~[person, including an outpatient treatment psychiatrist,]~~ interested party may file a petition with the family court for an order of continued ~~[involuntary outpatient]~~ assisted community treatment. The petition shall be filed and notice provided in the same manner as under sections 334-123 and 334-125.

(b) The family court shall hold a hearing on the petition and make its decision in the same manner as provided under sections 334-123 to 334-127. The family court may order the continued ~~[involuntary outpatient]~~ assisted community treatment for not more than ~~[180 days]~~ one year after the date of the hearing pursuant to this section~~[-]~~ if the court finds that the criteria for assisted community treatment continue to exist and are likely to continue beyond one hundred eighty days.

(c) Nothing in this section shall preclude the subject's stipulation to the continuance an existing court order. This section shall be in addition to the provisions on the objection to discharge."

SECTION 20. Section 334-134, Hawaii Revised Statutes, is amended to read as follows:

~~[[§334-134]]~~ Hearing for discharge. Any person may petition the family court for the discharge of an order of ~~[involuntary outpatient]~~ assisted community treatment during the period of ~~[outpatient]~~ assisted community treatment

~~[if more than]~~ after sixty days ~~[after]~~ from the most recent hearing involving the subject of the order. The petition shall be filed, notice given, hearing held, and order made in the same manner as provided for the original petition alleging that the subject of the order met the criteria for ~~[involuntary outpatient]~~ assisted community treatment.”

SECTION 21. (a) Any treating provider wishing to file a petition pursuant to section 334-123, Hawaii Revised Statutes, for assisted community treatment shall:

- (1) Obtain historical information related to MH-1s and hospitalization of persons who are under an order to treat; and
- (2) Track further episodes of MH-1s and hospitalization while the persons are under the order.

(b) An entity designated by the department of health shall gather information from treating providers related to MH-1s and hospitalization of persons who are under an order to treat and submit an annual report of its findings and recommendations to the legislature no later than twenty days prior to the convening of every regular session beginning with the regular session of 2015.

SECTION 22. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 23. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 24. This Act shall take effect on January 1, 2014, and shall be repealed on July 1, 2020; provided that:

- (1) Petitions filed pursuant to section 334-123, Hawaii Revised Statutes, for assisted community treatment involving a designated mental health program that is a state-operated provider shall not be filed until after July 1, 2015;
- (2) Any private provider wishing to file a petition pursuant to section 334-123, Hawaii Revised Statutes, for assisted community treatment may do so after January 1, 2014, using its own resources, if the petitioner is to be the designated mental health program;
- (3) Any interested party wishing to file a petition pursuant to section 334-123, Hawaii Revised Statutes, for assisted community treatment may do so after January 1, 2014, using the party's own resources, if the designated mental health program is a private provider; and
- (4) The title of chapter 334, part VIII, and sections 334-1, 334-59, 334-60.2, 334-60.5, and 334-121 through 334-134, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act.

(Approved June 27, 2013.)

Notes

1. Should be underscored.
2. Prior to amendment “That” appeared here.
3. Prior to amendment “early” appeared here.

A Bill for an Act Relating to Housing.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. The legislature finds that homelessness continues to be one of the State's most significant and challenging social problems. The legislature further finds that according to a recent report, fourteen thousand two hundred homeless individuals were served through shelter and outreach programs in fiscal year 2011. Of these individuals, nine thousand seven hundred eighty-one resided in the city and county of Honolulu. The legislature also finds that homeless service providers estimate that six thousand homeless people in the State need shelter each night.

The legislature additionally finds that homelessness is a complex issue that requires continuous resources and coordinated efforts at all levels. The legislature also finds that homeless persons face a myriad of issues, including mental illness, substance abuse, loss of employment and income, and a lack of affordable housing. Appropriate funding for programs and services tailored to address these issues is essential.

The purpose of this part is to better assist individuals facing or experiencing homelessness by funding various homeless and housing programs.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2013-2014 for substance abuse treatment and mental health support services for individuals who are homeless or at risk of becoming homeless.

The sums appropriated shall be expended by the department of health for the purposes of this part.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$200,000 or so much thereof as may be necessary for fiscal year 2013-2014 for clean and sober housing support services to be administered by the alcohol and drug abuse division of the department of health.

The sums appropriated shall be expended by the department of health for the purposes of this part.

PART II

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 2013-2014 for a rental assistance program, also known as a shallow subsidy program, for homeless working individuals and their families who are ready to rent permanent housing to obtain and maintain permanent housing; provided that:

- (1) The maximum subsidy shall be \$300 per month; provided that in order to qualify for the subsidy, a household shall pay a minimum of forty per cent of their adjusted gross income for rent; and
- (2) A household's adjusted gross income shall be calculated in the same manner as calculated by the Hawaii public housing authority to qualify for public housing under the authority's control.

The sums appropriated for program and administrative costs associated with establishing and operating the shallow subsidy program shall be expended by the department of human services through a contract issued pursuant to chapter 103F, Hawaii Revised Statutes, and sums appropriated for staff within the homeless programs office to administer the program shall be expended by the department of human services for the purposes of this part.

PART III

SECTION 5. The legislature finds that housing first programs are a collaborative effort between the department of human services and the United States Department of Housing and Urban Development that provides housing and support services for chronically homeless individuals, including those who have an addiction or mental illness, or both. The principles of housing first programs include:

- (1) Moving chronically homeless individuals into housing directly from streets and the shelters without a precondition of accepting or complying with treatment;
- (2) Providing robust support services for program participants that are predicated on assertive engagement rather than coercion;
- (3) Granting chronically homeless individuals priority as program participants in housing first programs;
- (4) Embracing a harm-reduction approach to addictions rather than mandating abstinence while supporting program participant commitments to recovery; and
- (5) Providing program participants with leases and tenant protections as provided by law.

The housing first programs in the State closely resemble the requirements of the United States Housing and Urban Development shelter plus care program and the Veterans Administration veteran's assisted supportive housing voucher program for homeless veterans. In its December 2011 report to the legislature pursuant to section 346-378, Hawaii Revised Statutes, the department of human services reported that the State has six hundred fifty-eight permanent housing placements plus support services through the shelter plus care and veteran's assisted supportive housing voucher programs.

The purpose of this part is to appropriate funds to the department of human services to support the State's housing first programs in assisting Hawaii's chronically homeless who are often the most vulnerable, most visible, and most difficult to serve.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$750,000 or so much thereof as may be necessary for fiscal year 2013-2014 to be deposited to the credit of the housing first special fund established under section 346-377, Hawaii Revised Statutes, for the department of human services to continue to administer housing first programs for chronically homeless individuals in the State.

SECTION 7. There is appropriated out of the housing first special fund the sum of \$750,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the department of human services to continue to administer housing first programs for chronically homeless individuals in the State.

The sums appropriated shall be expended by the department of human services for the purposes of this part.

PART IV

SECTION 8. The legislature finds that the purpose of the United States Department of Housing and Urban Development's homelessness prevention and rapid re-housing program was to provide economically distressed households and individuals with financial and other assistance to prevent them from becoming homeless and help those who are experiencing homelessness to be quickly re-housed and stabilized. The funds under this program were intended to target individuals and families who would be homeless but for this assistance.

The department of human services administered the homelessness prevention and rapid re-housing program to provide homeless prevention and housing assistance to all eligible individuals and households who apply through contracted organizations. The funds from the program provided for a variety of assistance, including short-term or medium-term rental assistance and housing relocation, and stabilization services, such as mediation, security or utility deposits, utility payments, moving cost assistance, and case management.

The purpose of this part is to appropriate funds to the department of human services to once again provide homelessness prevention and rapid re-housing assistance to all eligible individuals and households.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the homelessness prevention and rapid re-housing program.

The sums appropriated shall be expended by the department of human services for the purposes of this part.

PART V

SECTION 10. The shelter plus care program of the United States Department of Housing and Urban Development provides rental assistance in connection with supportive services. The program provides a variety of permanent housing choices, accompanied by a range of supportive services funded through other sources. The program assists hard-to-serve homeless individuals with disabilities and their families. These individuals primarily include those with serious mental illness, chronic problems with alcohol and drugs, and HIV, AIDS, or related diseases.

There are four components to the shelter plus care program: single room occupancy component — moderate rehabilitation for single-room occupancy dwellings; sponsor-based rental assistance component; project-based rental assistance component; and tenant-based rental assistance component. Under all components, supportive services must be available to meet the needs of participants. Similar to many other federal programs, the shelter plus care program has a match requirement. Applicants must match the aggregate amount of shelter plus care rental assistance with supportive services. This ensures that appropriate and timely services will be available to meet the needs of individual participants.

The purpose of this part is to provide matching funds for the shelter plus care program.

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$400,000 or so much thereof as may be necessary for fiscal year 2013-2014 for matching funds for the shelter plus care program of the United States Department of Housing and Urban Development.

The sums appropriated shall be expended by the department of human services for the purposes of this part.

PART VI

SECTION 12. The legislature finds that many homeless persons are known to thrive better when they have ready access to familiar support groups or family members. The intent of the return-to-home program is to ensure that those individuals who find themselves homeless in the islands are able to reconnect with support networks ready and able to receive them.

The purpose of this part is to establish a three-year return-to-home program for eligible homeless individuals.

SECTION 13. (a) The department of human services may coordinate a voluntary homeless assistance pilot program to be known as the return-to-home pilot program to provide eligible homeless individuals with assistance in being reunited with family and relatives in the individual's home state. The department may contract with eligible non-profit organizations, for profit organizations, or foundations to administer the pilot program.

(b) No individual who is homeless shall be eligible to participate in the return-to-home pilot program unless:

- (1) The individual's participation is completely voluntary;
- (2) The individual, if on parole, probation, or awaiting a court hearing or sentencing, has proper clearance from the court to participate in the pilot program; and
- (3) The individual is indigent and lacks the financial resources necessary to secure transportation to return to the individual's home state.

(c) An individual may participate in the return-to-home pilot program only once and shall sign an agreement to this effect before participating in the pilot program. The agreement shall be kept on file with the pilot program.

(d) The return-to-home pilot program shall actively seek the participation of local airlines, cruise lines, charter companies, homeless programs, travel agencies, and the visitor industry to coordinate and implement the pilot program.

(e) The return-to-home pilot program shall assist program participants with necessary and proper preparations for travel, including obtaining proper identification, accessing public transportation to the airport, providing orientation relating to airport security, and ensuring sufficient personal hygiene.

(f) The return-to-home pilot program shall cease to exist on December 31, 2016.

SECTION 14. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2013-2014 for implementation of the return-to-home pilot program, including all program costs and hiring of necessary staff.

The sum appropriated shall be expended by the department of human services for the purposes of this part.

PART VII

SECTION 15. The legislature finds that homelessness continues to be one of the State's most significant and challenging social problems. The number

of homeless persons in the State, estimated to be approximately six thousand on any given day, is indicative of the limited shelter space available.

The legislature further finds that new and innovative solutions are needed to address the homelessness crisis. Oregon, for example, has adopted laws that authorize political subdivisions to allow religious institutions to offer overnight camping space for homeless persons living in vehicles. Similarly, Santa Barbara, California, has instituted a program that allows private organizations to use county-owned parking lots to provide overnight sleeping space for homeless persons with vehicles.

The purpose of this part is to establish a homeless assistance working group to work within each local neighborhood in each county to identify, plan, and implement housing options for homeless persons in each local community by December 31, 2013, that reflect shared responsibility for addressing homelessness in Hawaii.

SECTION 16. (a) There is established within the department of human services a homeless assistance working group. The purpose of the working group shall be to:

- (1) Work within each local neighborhood in each county to identify various private and public properties whose owners are interested in partnering with the local neighborhood and government to provide land or structures that can be used to provide temporary homes for homeless persons, including people who are living in their motor vehicles;
- (2) Coordinate with the State's homeless programs office and continuum of care providers to match homeless persons in every community with appropriate care and housing;
- (3) Work with non-profit organizations, businesses, and government agencies that may be willing to offer their property for homeless persons living in their motor vehicles and coordinate voluntary participation and support to homeless persons;
- (4) Create, develop, and support the housing options within each local community; and
- (5) Communicate and coordinate with the Hawaii interagency council on homelessness on meeting their goals.

(b) The director of human services, or a designee, shall convene the working group and invite the following as members:

- (1) Representatives of homeless service providers;
- (2) Representatives of community and volunteer service organizations, which may include:
 - (A) Community associations;
 - (B) Neighborhood boards; and
 - (C) Faith-based organizations;
- (3) Representatives of property owners who are interested in partnering with the State to provide land, homes, or buildings that can be used to provide homes for homeless persons;
- (4) Representatives of the homeless community who are currently experiencing or formerly experienced homelessness;
- (5) Representatives of environmental organizations;
- (6) Representatives of the architecture, engineering, development, and building industry;
- (7) Representatives of other businesses, including realtors and financial institutions;
- (8) Representatives of labor unions;

- (9) Representatives of legal services;
- (10) Representatives of the technology community;
- (11) Various federal, state, and county and city representatives, including the chair of the Hawaii interagency council on homelessness and homeless programs office administrator;
- (12) Interested federal, state, county, and city elected officials; and
- (13) Others interested in supporting homeless assistance.

The members of the working group shall designate a chair from among themselves and serve without compensation.

(c) The working group shall convene within thirty days of the effective date of this Act.

(d) The working group shall submit an interim report of its findings and recommendations, including the progress made to provide housing and support services, as appropriate, for homeless persons and any innovative temporary housing solutions, to the legislature no later than one hundred fifty days after the effective date of this Act.

(e) The homeless assistance working group shall dissolve on June 30, 2016.

SECTION 17. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the construction and demonstration of innovative temporary housing solutions as they relate to the working group's findings and recommendations.

The sum appropriated shall be expended by the department of human services for the purposes of this Act.

PART VIII

SECTION 18. This Act shall take effect on July 1, 2013; provided that part VI shall take effect no later than December 31, 2013.

(Approved June 27, 2013.)

ACT 223

H.B. NO. 536

A Bill for an Act Relating to Public Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 356D-42, Hawaii Revised Statutes, is amended to read as follows:

~~“[H]§356D-42[H] Housing; tenant selection.~~ ~~[Subject to the following limitations and preferences, the]~~ (a) The authority shall select tenants upon the basis of those in greatest need for the particular housing[-], subject to the following limitations and preferences:

- (1) The authority may limit the tenants of any state low-income housing project to classes of persons when required by federal law or regulation as a term or condition of obtaining assistance from the federal government[-];
- (2) Within the priorities established by the authority recognizing need, veterans with a permanent disability of ten per cent or more, as certified by the United States Department of Veterans Affairs, ~~[the]~~

and their dependent parents [of the veteran, and the], if any. The deceased veteran's widow or widower shall be given first preference. Parents of veterans shall not use the veteran status of their adult child as a basis for preference; and

- (3) Subject to any limitations set by federal law or regulation, the authority shall not select as a tenant, and may terminate the tenancy of, any person if the person or any household member owns or acquires a home within the State.

(b) The authority shall adopt rules pursuant to chapter 91 to carry out the purposes of this section."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 27, 2013.)

ACT 224

H.B. NO. 656

A Bill for an Act Relating to Health Care Administrative Uniformity.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the State of Hawaii provides or pays for health insurance for nearly forty per cent of the population, and, therefore, is directly impacted by the escalating cost of health care services.

The legislature also finds that increases in premiums for health insurance coverage affect subscribers for such coverage, existing and new businesses, and the overall economy of the State.

The legislature further finds that the health care industry is undergoing a dramatic transformation, and that, in order to effectively harness new or improved approaches, concepts, and initiatives that have the potential to have a positive impact on the cost and quality of health care, the State must spearhead a statewide health care transformation, and strive to continuously improve the health care system.

The purpose of this Act is to establish within the office of the governor a temporary program specially targeted to initiate this transformation. It is envisioned that the program will focus on processes, measures, and other matters directed at improving the quality and cost-effectiveness of health care service; opportunities for administrative uniformity or the standardization of processes, measures, and other matters; reducing unnecessary administrative burdens faced by health care providers, health care facilities, and health plans; and supporting innovations in the delivery of care by using common definitions, criteria, and reimbursement approaches.

SECTION 2. (a) There is established and temporarily placed within the office of the governor the health care transformation program, which shall terminate on July 1, 2015. The principal mission of the program is to identify the issues that need to be addressed to achieve statewide health care transformation,

and develop a strategy, framework, and timeline, as well as proposed legislation and rules, directed at the transformation, and to thereby improve the quality and cost-effectiveness of the health care delivery system, and ensure that Hawaii residents and visitors have access to high-quality and cost effective health care. The governor shall consider a broad range of initiatives, issues, and strategies, including:

- (1) The identification of processes, measures, and goals to evaluate and improve the quality and cost-effectiveness of health care services;
- (2) Opportunities for administrative uniformity or the standardization of processes, measures, and other matters directed at improving the quality and cost-effectiveness of health care service;
- (3) Fair and efficient payment models for health care services;
- (4) Streamlined authorization procedures for health care services;
- (5) Improvement and expansion of the use of information technologies to organize, store, safeguard, exchange, and report clinical, cost, educational, technical, administrative, regulatory, and other health care-related data;
- (6) Improvement and promotion of the establishment and use of cost-effective preferred drug lists; and
- (7) Any other issue, solution, or initiative necessary or appropriate to further the principal mission of the program.

(b) To facilitate the development of the strategy, framework, and timeline, as well as legislation and rules pursuant to subsection (a), the governor may obtain information by informally consulting, individually or as a group, with any stakeholder or subject-matter expert selected by the program. The governor may informally collaborate, individually or as a group, with any stakeholder or subject-matter expert, to enable the program to plan and develop proposed strategies, including proposed legislation and rules.

SECTION 3. The governor shall submit a progress report containing the status of the health care transformation program, including findings and recommendations to the legislature, no later than twenty days prior to the convening of the regular session of 2014. The governor shall submit a final report on the health care transformation program, including findings, recommendations, and any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2015.

SECTION 4. This Act shall take effect on July 1, 2013.

(Approved June 27, 2013.)

ACT 225

H.B. NO. 62

A Bill for an Act Relating to Pharmacy Benefits Managers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that pharmacy benefits managers often use a patient's prescription drug claims information to directly market to that patient the services of a preferred pharmacy provider that is owned by the pharmacy benefits manager.

The legislature further finds that the practice of pharmacy benefits managers sharing a patient's prescription claims information with their partially or wholly owned subsidiaries, for the purpose of marketing, without the patient's

express consent is a breach of the patient's right to privacy. Article I, section 6, of the Hawaii State Constitution states, "[t]he right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest." This right, as it relates to a person's medical health information, was affirmed by the Hawaii Supreme Court in *Brende v. Hara*, 153 P.3d 1109 (2007).

The purpose of this Act is to prohibit pharmacy benefits managers, or their partially or wholly owned subsidiaries, from using a patient's medical health information to market or advertise to that patient the services of a preferred pharmacy network that is owned by the pharmacy benefits manager, without the express consent of the patient.

SECTION 2. Chapter 487J, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§487J- Pharmacy benefits managers; health information; prohibited marketing practices. (a) A pharmacy benefits manager shall not:

- (1) Use an individual's health information, or share an individual's health information with any pharmacy affiliated with or owned, wholly or in part, by the pharmacy benefits manager, for the purpose of marketing, unless:
 - (A) Use of the individual's health information is medically necessary to the health and safety of the individual;
 - (B) Use of the individual's health information is consistent with regulations of the federal Centers for Medicare and Medicaid, if the plan is governed by those rules; or
 - (C) The individual has affirmatively opted in, in writing, to use of the information;
- (2) Sell or disseminate such information unless the sale or dissemination complies with all federal and state laws and the pharmacy benefits manager has received written approval for such sale or dissemination from the employee benefit plan, health benefits plan, or managed care plan sponsor, and the individual; or
- (3) Directly contact an individual by any means, including via electronic delivery, telephonic, SMS text, or direct mail, for the purposes of marketing pharmacy benefits manager-owned pharmacies without the express written permission of the employee benefit plan, health benefits plan, or managed care plan sponsor, and the individual, unless the employee benefit plan, health benefits plan, or managed care plan sponsor first determines that the contact is medically necessary to the health and safety of the individual.

(b) Nothing in this section shall prohibit the use of a patient's health information that is used in conjunction with an insurer-authorized program to more effectively use prescription drugs to improve the health and safety of the individual.

(c) A pharmacy benefits manager shall provide each individual with an opportunity to affirmatively opt in to the sale or dissemination of their health information prior to entering into any arrangement for the lease, rental, dissemination, or sale of such information to any other entity, or to any subsidiary owned, wholly or in part, by the pharmacy benefits manager; provided that an individual may freely revoke the affirmative opt in at any time."

SECTION 3. Section 487J-1, Hawaii Revised Statutes, is amended by adding seven new definitions to be appropriately inserted and to read as follows:

““Affiliated” means businesses or persons who have contractual arrangements with, or are subject to the control of, the pharmacy benefits manager.

“Employee benefit plan” means any plan as defined in title 29 United States Code section 1002(3), as amended.

“Health benefits plan” has the same meaning as in section 87A-1.

“Health information” has the same meaning as in 45 Code of Federal Regulations section 160.103, as may be amended.

“Managed care plan” has the same meaning as in section 432E-1.

“Marketing” means making a communication about a product or service that encourages a recipient of the communication to purchase or use the product or service.

“Pharmacy benefits manager” means any person, business, or entity that performs pharmacy benefits management, including but not limited to a person or entity under contract with a pharmacy benefits manager to perform pharmacy benefits management on behalf of a managed care company, nonprofit hospital or medical service organization, insurance company, third-party payor, or health program administered by the State.”

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval, and shall apply to all plans and contracts issued, renewed, modified, altered, or amended on or after such effective date.

(Approved June 27, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 226

H.B. NO. 65

A Bill for an Act Relating to Prescription Drugs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that many pharmacy benefit managers and other prescription drug benefit plan providers impose certain requirements, including the requirement for beneficiaries to purchase prescription drugs from a mail order pharmacy. The legislature also finds that this requirement can create significant hardships on beneficiaries in rural areas. Recent cuts to post office hours in some neighbor island communities have increased delivery times for prescription mail orders. These factors may prevent beneficiaries from promptly obtaining urgently needed prescription drugs. Furthermore, many beneficiaries, especially senior citizens, trust and rely on face-to-face interactions with their local pharmacists, who are more familiar with a beneficiary’s medical history and who can better assist with any questions relating to other prescription drugs, over-the-counter medications, or potentially dangerous drug interactions.

Mandating prescription drug purchases by mail order denies beneficiaries of this important interaction, takes away consumer choice, and can create hardships for beneficiaries. Accordingly, the legislature concludes that beneficiaries should have the choice to purchase prescription drugs from a mail order pharmacy or a local retail pharmacy.

The purpose of this Act is to:

- (1) Specify that an otherwise qualified retail community pharmacy that requests to enter into a contractual retail pharmacy network agreement shall be considered part of a pharmacy benefit manager's retail pharmacy network for purposes of a beneficiary's right to choose where to purchase covered prescription drugs;
- (2) Require a prescription drug benefit plan, health benefits plan under chapter 87A, Hawaii Revised Statutes, or pharmacy benefit manager to permit beneficiaries to fill any covered prescription that may be obtained by mail order at any pharmacy of the beneficiary's choice within the pharmacy benefit manager's retail pharmacy network;
- (3) Require a prescription drug benefit plan, health benefits plan under chapter 87A, Hawaii Revised Statutes, or pharmacy benefit manager to file an annual report with the insurance commissioner disclosing certain amounts, terms, and conditions associated with a prescription drug benefit plan; and
- (4) Require affected entities to submit a report to the legislature no later than twenty days prior to the convening of the regular sessions of 2014 and 2015.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER PRESCRIPTION DRUG BENEFITS

§ -1 **Definitions.** As used in this chapter, unless the context indicates otherwise:

"Beneficiary of a prescription drug benefit plan" or "beneficiary" means a person who is a member, subscriber, enrollee, or dependent of a member, subscriber, or enrollee of or otherwise covered under a prescription drug benefit plan.

"Pharmacy benefit manager" means any person, business, or entity that performs pharmacy benefit management, including but not limited to a person or entity under contract with a pharmacy benefit manager to perform pharmacy benefit management on behalf of a managed care company, nonprofit hospital or medical service organization, insurance company, third-party payor, or health program administered by the State.

"Pharmacy benefit manager's retail pharmacy network" means a retail pharmacy located and licensed in the State and contracted by the pharmacy benefit manager to sell prescription drugs to beneficiaries of a prescription drug benefit plan administered by the manager.

"Prescription drug benefit plan" means an accident and sickness insurance plan or health benefits plan that includes coverage for prescription drugs. For the purposes of this definition, a "health benefits plan" has the same meaning as in section 87A-1.

"Prescription drug benefit plan provider" means a person who provides prescription drug coverage as part of an accident and health or sickness insurance contract or other type of health insurance or benefits plan that is offered by the person and is subject to regulation under article 10A of chapter 431, chapter 432, or chapter 432D.

"Retail community pharmacy" means a pharmacy, permitted by the board of pharmacy pursuant to section 461-14, that is open to the public, dispenses prescription drugs to the general public, and makes available face-to-face

consultations between licensed pharmacists and the general public to whom prescription drugs are dispensed.

§ -2 Retail community pharmacies; retail pharmacy network; contractual agreements. (a) An otherwise qualified retail community pharmacy registered to do business in this State that requests to enter into a contractual retail pharmacy network agreement accepting the standard terms, conditions, formularies, or requirements relating to dispensing fees, payments, reimbursement amounts, or other pharmacy services shall be considered part of a pharmacy benefit manager's retail pharmacy network for purposes of a beneficiary's right to choose where to purchase covered prescription drugs under section -3.

(b) It shall be a violation of this section for a prescription drug benefit plan, health benefits plan under chapter 87A, or pharmacy benefit manager to refuse to accept an otherwise qualified retail community pharmacy as part of a pharmacy benefit manager's retail pharmacy network.

(c) A contractual retail pharmacy network agreement entered into under this section shall be renewed annually, unless agreed to by the parties. If a prescription drug benefit plan, health benefits plan under chapter 87A, or pharmacy benefit manager who has entered into a contractual retail pharmacy network agreement with a retail community pharmacy considers such retail community pharmacy no longer otherwise qualified, the prescription drug benefit plan, health benefits plan under chapter 87A, or pharmacy benefit manager may appeal the retail community pharmacy's qualifications with the insurance commissioner.

(d) The insurance commissioner shall determine the standards and requirements necessary for a retail community pharmacy to be deemed "otherwise qualified" for purposes of this section.

§ -3 Prescription drugs; beneficiary choice; mail order opt out. (a) If a retail community pharmacy enters into a contractual retail pharmacy network agreement pursuant to section -2, a prescription drug benefit plan, health benefits plan under chapter 87A, or pharmacy benefit manager shall permit each beneficiary, at the beneficiary's option, to fill any covered prescription that may be obtained by mail order at any retail community pharmacy of the beneficiary's choice within the pharmacy benefit manager's retail pharmacy network.

(b) A prescription drug benefit plan, health benefits plan under chapter 87A, or pharmacy benefit manager who has entered into a contractual retail pharmacy network agreement with a retail community pharmacy shall not:

- (1) Require a beneficiary to exclusively obtain any prescription from a mail order pharmacy;
- (2) Impose upon a beneficiary utilizing the retail community pharmacy a copayment, fee, or other condition not imposed upon beneficiaries electing to utilize a mail order pharmacy;
- (3) Subject any prescription dispensed by a retail community pharmacy to a beneficiary to a minimum or maximum quantity limit, length of script, restriction on refills, or requirement to obtain refills not imposed upon a mail order pharmacy;
- (4) Require a beneficiary in whole or in part to pay for any prescription dispensed by a retail community pharmacy and seek reimbursement if the beneficiary is not required to pay for and seek reimbursement in the same manner for a prescription dispensed by a mail order pharmacy;

- (5) Subject a beneficiary to any administrative requirement to use a retail community pharmacy that is not imposed upon the use of a mail order pharmacy; or
- (6) Impose any other term, condition, or requirement pertaining to the use of the services of a retail community pharmacy that materially and unreasonably interferes with or impairs the right of a beneficiary to obtain prescriptions from a retail community pharmacy of the beneficiary's choice.

§ -4 Report to insurance commissioner. (a) No later than March 31 of each calendar year, each prescription drug benefit plan, health benefits plan under chapter 87A, and pharmacy benefit manager shall file with the insurance commissioner, in such form and detail as the insurance commissioner shall prescribe, a report for the preceding calendar year stating that the pharmacy benefit manager or prescription drug benefit plan is in compliance with this chapter. The report shall fully disclose the amount, terms, and conditions relating to copayments, reimbursement options, and other payments associated with a prescription drug benefit plan.

(b) The insurance commissioner shall review and examine records supporting the accuracy and completeness of the report and, no later than ninety days after the receipt of the report, shall make available to a purchaser of a prescription drug benefit plan and to any retail community pharmacy participating in a retail pharmacy network under section -2 that provides benefits to beneficiaries of a prescription drug benefit plan a summary of the amount, terms, and conditions relating to copayments, reimbursement options, and other payments associated with a prescription drug benefit plan.

§ -5 Violations; penalties. (a) The insurance commissioner may assess a fine of up to \$10,000 for each violation by a pharmacy benefit manager or prescription drug benefit plan provider who is in violation of section -2 or -3. In addition, the insurance commissioner may order the pharmacy benefit manager to take specific affirmative corrective action or make restitution.

(b) Failure of a pharmacy benefit manager to comply with a previously agreed upon contractual retail pharmacy network agreement pursuant to section -2 or -3 shall be an unfair or deceptive act or practice as provided in section 431:13-102.

(c) A pharmacy benefit manager or prescription drug benefit plan provider may appeal any decision made by the insurance commissioner in accordance with chapter 91.

§ -6 Application. If this chapter or any provision of this chapter conflicts at any time with any federal law, then the federal law shall prevail and this chapter or the relevant provisions of this chapter shall become ineffective and invalid. The ineffectiveness or invalidity of this chapter or any of its provisions shall not affect any other provisions or applications of this chapter, which shall be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable.

§ -7 Rules. The insurance commissioner may adopt rules pursuant to chapter 91 to implement the requirements of this chapter."

SECTION 3. Chapter 87A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§87A- Prescription drugs; mail order opt out option. A Hawaii employer-union health benefits trust fund health benefits plan shall permit each beneficiary to fill any covered prescription in accordance with chapter .”

SECTION 4. (a) Each pharmacy benefit manager, prescription drug benefit plan provider, and the Hawaii employer-union health benefits trust fund shall submit a report to the legislature no later than twenty days prior to the convening of the regular sessions of 2014 and 2015.

(b) Each report shall include:

- (1) The number of beneficiaries affected by the provisions of this measure;
- (2) The number of beneficiaries who opted out of a requirement to purchase prescription drugs from a mail order pharmacy or, in the case of a prescription drug benefit plan subject to regulation under chapter 432D, Hawaii Revised Statutes, the number of beneficiaries who opt to purchase prescription drugs from a retail community pharmacy; and
- (3) The status of the report filed with the insurance commissioner as required pursuant to section -4, Hawaii Revised Statutes.

SECTION 5. This Act shall not apply to contracts negotiated between pharmacy benefit managers and community retail pharmacies with a rural pharmacy designation pursuant to federal law.

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. New statutory material is underscored.¹

SECTION 8. This Act shall take effect upon its approval and shall apply to all prescription drug benefit plans issued, renewed, modified, altered, or amended on or after such effective date.

(Approved June 27, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 227

H.B. NO. 672

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. The legislature finds that according to a 2009 study, frequent visits to stores selling tobacco and a greater awareness of cigarettes sold in stores increased the likelihood of teenagers’ susceptibility to initiating smoking, experimenting with smoking, or becoming smokers.

The State has a compelling interest in reducing the number of children and teenagers in Hawaii who smoke.

The purpose of this part is to reduce the number of minors and youth who smoke by prohibiting the sale of electronic smoking devices to minors and the purchase of these items by minors.

SECTION 2. Section 709-908, Hawaii Revised Statutes, is amended to read as follows:

“§709-908 Tobacco~~;~~ and electronic smoking devices prohibited; minors.

(1) It shall be unlawful to sell or furnish tobacco in any shape or form, including chewing tobacco and snuff, or an electronic smoking device to a minor under eighteen years of age.

(2) Signs using the statement, “The sale of tobacco products or electronic smoking devices to persons under eighteen is prohibited”, shall be posted on or near any vending machine in letters at least one-half inch high and at or near the point of sale of any other location where tobacco products or electronic smoking devices are sold in letters at least one-half inch high.

(3) It shall be unlawful for a minor under eighteen years of age to purchase any tobacco product, as described under subsection (1)~~[-]~~, or an electronic smoking device, as described under subsection (5). This provision does not apply if a person under the age of eighteen, with parental authorization, is participating in a controlled purchase as part of a law enforcement activity or a study authorized by the department of health under the supervision of law enforcement to determine the level of incidence of tobacco or electronic smoking devices sales to minors.

(4) Any person who violates subsection (1) or (2), or both, shall be fined \$500 for the first offense. Any subsequent offenses shall subject the person to a fine not less than \$500 nor more than \$2,000. Any minor under eighteen years of age who violates subsection (3) shall be fined \$10 for the first offense. Any subsequent offense shall subject the violator to a fine of \$50, no part of which shall be suspended, or the person shall be required to perform not less than forty-eight hours nor more than seventy-two hours of community service during hours when the person is not employed and is not attending school.

(5) For the purposes of this section:

“Electronic smoking device” means any electronic product that can be used to simulate smoking in the delivery of nicotine or other substances to the person inhaling from the device, including but not limited to an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe, and any cartridge or other component of the device or related product.”

PART II

SECTION 3. Chapter 328J, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§328J- Placement of cigarettes and tobacco products. (a) Except as otherwise provided under this section, a retailer may sell cigarettes, smokeless tobacco, and all other tobacco products only in a direct, face-to-face exchange between the retailer and the consumer. Examples of methods of sale that are not permitted include vending machines and self-service displays.

(b) This section shall not apply to:

- (1) A duty-free sales enterprise selling duty-free merchandise in accordance with the provisions of Title 19 United States Code section 1555(b), and any implementing regulations; and
- (2) Retail tobacco stores, bars, or any other establishment for which the minimum age for admission is eighteen.”

PART III

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval; provided that section 3 of this Act shall take effect on July 1, 2014.

(Approved June 27, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 228

H.B. NO. 899

A Bill for an Act Relating to Recycling.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees’ retirement system created by section 88-109;
- (11) Unemployment compensation fund established under section 383-121;
- (12) Hawaii hurricane relief fund established under chapter 431P;
- (13) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (14) Tourism special fund established under section 201B-11;
- (15) Universal service fund established under section 269-42;
- (16) Emergency and budget reserve fund under section 328L-3;
- (17) Public schools special fees and charges fund under section 302A-1130;

- (18) Sport fish special fund under section 187A-9.5;
- (19) Glass advance disposal fee established by section 342G-82;
- (20) Center for nursing special fund under section 304A-2163;
- (21) Passenger facility charge special fund established by section 261-5.5;
- (22) Court interpreting services revolving fund under section 607-1.5;
- (23) Hawaii cancer research special fund;
- (24) Community health centers special fund;
- (25) Emergency medical services special fund;
- (26) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (27) Shared services technology special fund under section 27-43; ~~and~~
- (28) Automated victim information and notification system special fund established under section 353-136[-]; ~~and~~
- (29) Deposit beverage container deposit special fund under section 342G-104.

shall deduct five per cent of all receipts of all special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that the amendments made to section 36-27(a), Hawaii Revised Statutes, by section 1 of this Act shall not be repealed when section 36-27, Hawaii Revised Statutes, is reenacted on June 30, 2015, by section 34 of Act 79, Session Laws of Hawaii 2009.

(Approved June 27, 2013.)

ACT 229

S.B. NO. 1124

A Bill for an Act Relating to the Dietitian Licensure Special Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 448B-10, Hawaii Revised Statutes, is amended to read as follows:

"~~§448B-10~~ Dietitian licensure special fund. (a) There is established in the state treasury a special fund to be known as the dietitian licensure special fund to be administered by the department. Fees collected under section 448B-9 shall be deposited in the dietitian licensure special fund and may be expended for ~~the~~ costs associated with administering the licensure program, including but not limited to education.

(b) Not more than \$30,000 of the dietitian licensure special fund may be used during any fiscal year for activities associated with administering the

licensure program including the costs associated with administering the licensure program.

(c) Any amount in the dietitian licensure special fund in excess of \$35,000 on June 30 of each fiscal year shall be deposited into the general fund.

(d) The department shall submit a report to the legislature concerning the status of the dietitian licensure special fund, including deposits to and expenditures from the dietitian licensure special fund and the sources of receipts and uses of expenditures, no later than twenty days prior to the convening of each regular session."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 27, 2013.)

ACT 230

S.B. NO. 1133

A Bill for an Act Relating to the Deposit Beverage Container Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to include energy and dietary supplement beverage containers in the deposit beverage container program.

SECTION 2. Section 342G-1, Hawaii Revised Statutes, is amended by amending the definition of "deposit beverage" to read as follows:

"“Deposit beverage” means beer, ale, or other drink produced by fermenting malt, mixed spirits, mixed wine, tea and coffee drinks regardless of dairy-derived product content, soda, or noncarbonated water, and all nonalcoholic drinks in liquid form and intended for internal human consumption that is contained in a deposit beverage container.

The term “deposit beverage” excludes the following:

- (1) A liquid ~~[which]~~ that is:
 - (A) A syrup;
 - (B) In a concentrated form; or
 - (C) Typically added as a minor flavoring ingredient in food or drink, such as extracts, cooking additives, sauces, or condiments;
- (2) A liquid ~~[which]~~ that is ingested in very small quantities and which is consumed for medicinal purposes only;
- (3) A ~~[liquid which is designed and consumed only as a nutritional]~~ single serving of one ounce or less of a dietary supplement as defined in the Dietary-Supplement Health and Education Act of 1994 (P.L. 103-417) ~~[and not as a beverage];~~
- (4) A liquid that the department finds to be the sole item of a meal or diet;
- ~~[(4)]~~ (5) Products frozen at the time of sale to the consumer, or, in the case of institutional users such as hospitals and nursing homes, at the time of sale to the users;
- ~~[(5)]~~ (6) Products designed to be consumed in a frozen state;
- ~~[(6)]~~ (7) Instant drink powders;
- ~~[(7)]~~ (8) Seafood, meat, or vegetable broths, or soups, but not juices; and

- ~~[(8)]~~ (9) Milk and all other dairy-derived products, except tea and coffee drinks with trace amounts of these products.”

SECTION 3. Section 342G-101, Hawaii Revised Statutes, is amended by amending the definition of “deposit beverage” to read as follows:

““Deposit beverage” means beer, ale, or other drink produced by fermenting malt, mixed spirits, mixed wine, tea and coffee drinks regardless of dairy-derived product content, soda, or noncarbonated water, and all nonalcoholic drinks in liquid form and intended for internal human consumption that is contained in a deposit beverage container.

The term “deposit beverage” excludes the following:

- (1) A liquid ~~[which]~~ that is:
 - (A) A syrup;
 - (B) In a concentrated form; or
 - (C) Typically added as a minor flavoring ingredient in food or drink, such as extracts, cooking additives, sauces, or condiments;
- (2) A liquid ~~[which]~~ that is a drug, medical food, or infant formula as defined by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. §301 et seq.);
- (3) A ~~liquid which is designed and consumed only as a~~ single serving of one ounce or less of a dietary supplement [and not as a beverage] as defined in the Dietary Supplement Health and Education Act of 1994 (P.L. 103-417);
- (4) A liquid that the department finds to be the sole item of a meal or diet;
- ~~[(4)]~~ (5) Products frozen at the time of sale to the consumer, or, in the case of institutional users such as hospitals and nursing homes, at the time of sale to the users;
- ~~[(5)]~~ (6) Products designed to be consumed in a frozen state;
- ~~[(6)]~~ (7) Instant drink powders;
- ~~[(7)]~~ (8) Seafood, meat, or vegetable broths, or soups, but not juices; and
- ~~[(8)]~~ (9) Milk and all other dairy-derived products, except tea and coffee drinks with trace amounts of these products.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2014.

(Approved June 27, 2013.)

ACT 231

S.B. NO. 1138

A Bill for an Act Relating to Vaccination Guidelines.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. National recommendations for vaccine administration are updated yearly, at minimum, by the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services. This may cause a discrepancy between current national vaccination standards and Hawaii’s pediatric and school entry and attendance vaccination requirements.

The purpose of this Act is to provide the department of health with the authority to ensure that vaccinations required in Hawaii, and the manner and

frequency of their administration, conform with recognized standard medical practices.

SECTION 2. Section 302A-1162, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1162 Rules. (a) The department of health shall adopt rules under chapter 91 relating to immunization, physical examination, and tuberculin testing under sections 302A-1154 to 302A-1163. Immunizations required, and the manner and frequency of their administration, shall conform with recognized standard medical practices. The list of diseases and minimum requirements for protection under sections 302A-1154 to 302A-1163 may be revised whenever the department of health deems it necessary for the protection of public health.

(b) The department shall establish by rule standards for documentation of compliance with school health requirements under sections 302A-1154 through 302A-1163.

(c) The department may adopt, amend, or repeal rules pursuant to chapter 91 to establish a list of specific vaccines that are available or may become available. Notwithstanding the notice, public hearing, and comment requirements of chapter 91 and the provisions of chapter 201M, the director of health, in consultation with the state epidemiologist, may adopt, amend, or repeal as rules, the immunization recommendations of the United States Department of Health and Human Services, Advisory Committee on Immunization Practices, including interim recommendations, as they apply to the list of specific vaccines, if any, described in this subsection. The department shall make the adoption, amendment, or repeal of rules regarding United States Department of Health and Human Services, Advisory Committee on Immunization Practices immunization recommendations known to the public by:

- (1) Giving public notice of the substance of the proposed rules at least once statewide; and
- (2) Posting the full text of the proposed rulemaking action on the Internet as provided in section 91-2.6.

The rules, when adopted, amended, or repealed pursuant to chapter 91 as modified by this section, shall have the force and effect of law. The department may defer the effective date of adopted, amended, or repealed rules to allow sufficient time to ensure compliance with the new, amended, or repealed rules.”

SECTION 3. Section 325-32, Hawaii Revised Statutes, is amended to read as follows:

“§325-32 Immunization against infectious diseases. (a) The department of health may adopt rules requiring and governing immunization against typhoid fever, pertussis (whooping cough), diphtheria, tetanus, poliomyelitis, measles, mumps, hepatitis B, rubella, haemophilus influenzae type B, and any other communicable disease, if a suitable immunizing agent is available for the disease and a need for immunization against it exists within the State. The department may also provide vaccines and other immunizing agents to private and public health care providers for administration to the general public.

(b) The department may adopt, amend, or repeal rules pursuant to chapter 91 to establish a list of specific vaccines that are available or may become available. Notwithstanding the notice, public hearing, and comment requirements of chapter 91 and the provisions of chapter 201M, the director of health, in consultation with the state epidemiologist, may adopt, amend, or repeal as rules, the immunization recommendations of the United States Department of

Health and Human Services, Advisory Committee on Immunization Practices, including interim recommendations, as they apply to the list of specific vaccines, if any, described in this subsection. The department shall make the adoption, amendment, or repeal of rules regarding United States Department of Health and Human Services, Advisory Committee on Immunization Practices immunization recommendations known to the public by:

- (1) Giving public notice of the substance of the proposed rules at least once statewide; and
- (2) Posting the full text of the proposed rulemaking action on the Internet as provided in section 91-2.6.

The rules, when adopted or amended pursuant to chapter 91 as modified by this section, shall have the force and effect of law. The department may defer the effective date of adopted, amended, or repealed rules to allow sufficient time to ensure compliance with the new, amended, or repealed rules."

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 27, 2013.)

ACT 232

S.B. NO. 44

A Bill for an Act Relating to Mental Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 334-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Law enforcement officer" has the same meaning as in section 710-1000."

SECTION 2. Section 334-2.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The department may operate or contract for a secure psychiatric rehabilitation program for individuals who require intensive therapeutic treatment and rehabilitation in a secure setting. The services authorized by this section shall be for persons:

- (1) Involuntarily hospitalized under this chapter for whom the services cannot be reimbursed, covered, or provided by an insurer, plan, or other person;
- (2) Committed to the custody of the director under chapter 704; and
- (3) Appropriately hospitalized under chapter 704 or 706.

The director shall be responsible for the appropriate placement of all persons placed in facilities or services contracted for or operated by the director under paragraphs (1) through (3).

Any such person placed in a facility or services contracted for or operated by the director who leaves or remains away from the facility or services, without permission, may be apprehended and returned to the facility or services by any employee of the department or by any [police] law enforcement officer without any warrant or further proceeding."

SECTION 3. Section 334-59, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Initiation of proceedings. An emergency admission may be initiated as follows:

- (1) If a ~~[police]~~ law enforcement officer has reason to believe that a person is imminently dangerous to self or others, or is gravely disabled, or is obviously ill, the officer shall call for assistance from the mental health emergency workers designated by the director. Upon determination by the mental health emergency workers that the person is imminently dangerous to self or others, or is gravely disabled, or is obviously ill, the person shall be transported by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A ~~[police]~~ law enforcement officer may also take into custody and transport to any facility designated by the director any person threatening or attempting suicide. The officer shall make application for the examination, observation, and diagnosis of the person in custody. The application shall state or shall be accompanied by a statement of the circumstances under which the person was taken into custody and the reasons therefor, which shall be transmitted with the person to a physician or psychologist at the facility.
- (2) Upon written or oral application of any licensed physician, advanced practice registered nurse, psychologist, attorney, member of the clergy, health or social service professional, or any state or county employee in the course of employment, a judge may issue an ex parte order orally, but shall reduce the order to writing by the close of the next court day following the application, stating that there is probable cause to believe the person is mentally ill or suffering from substance abuse, is imminently dangerous to self or others, or is gravely disabled, or is obviously ill, and in need of care or treatment, or both, giving the findings on which the conclusion is based, and directing that a ~~[police]~~ law enforcement officer or other suitable individual take the person into custody and deliver the person to the nearest facility designated by the director for emergency examination and treatment. The ex parte order shall be made a part of the patient's clinical record. If the application is oral, the person making the application shall reduce the application to writing and shall submit the same by noon of the next court day to the judge who issued the oral ex parte order. The written application shall be executed subject to the penalties of perjury but need not be sworn to before a notary public.
- (3) Any licensed physician, advanced practice registered nurse, physician assistant, or psychologist who has examined a person and has reason to believe the person is:
 - (A) Mentally ill or suffering from substance abuse;
 - (B) Imminently dangerous to self or others, or is gravely disabled, or is obviously ill; and
 - (C) In need of care or treatment;
 may direct transportation, by ambulance or other suitable means, to a licensed psychiatric facility for further evaluation and possible emergency hospitalization. A licensed physician, an advanced practice registered nurse, or physician assistant may administer treatment as is medically necessary, for the person's safe transportation.

A licensed psychologist may administer treatment as is psychologically necessary.”

SECTION 4. Section 334-60.5, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

“(i) If after hearing all relevant evidence, including the result of any diagnostic examination ordered by the court, the court finds that an individual is not a person requiring medical, psychiatric, psychological, or other rehabilitative treatment or supervision, the court shall order that the individual be discharged if the individual has been hospitalized prior to the hearing. If the court finds that the criteria for involuntary hospitalization under section 334-60.2(1) has been met beyond a reasonable doubt and that the criteria under sections 334-60.2(2) and 334-60.2(3) have been met by clear and convincing evidence, the court may issue an order to any [police] law enforcement officer to deliver the subject to a facility that has agreed to admit the subject as an involuntary patient, or if the subject is already a patient in a psychiatric facility, authorize the facility to retain the patient for treatment for a period of ninety days unless sooner discharged. An order of commitment shall specify which of those persons served with notice pursuant to section 334-60.4, together with such other persons as the court may designate, shall be entitled to receive any subsequent notice of intent to discharge, transfer, or recommit.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 27, 2013.)

ACT 233

S.B. NO. 454

A Bill for an Act Relating to Water Conservation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. According to the waste water branch of the department of health in a report, “Guidelines for the Reuse of Gray Water”, dated June 22, 2009, gray water from residences may be reused to irrigate the landscape of the property that the gray water was generated from if certain conditions are satisfied.

The legislature finds that the use of gray water for landscape irrigation purposes should be increased in the interests of fresh or potable water conservation.

The purpose of this Act is to encourage the widespread reuse of gray water to irrigate lawns and gardens.

SECTION 2. Section 342D-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“‘Gray water’ means any untreated wastewater that has not come into contact with toilet waste. Gray water includes used water from bathtubs, showers, and bathroom wash basins and water from clothes washers and laundry tubs; provided that the water is not contaminated with any household hazardous waste as defined in section 342G-1, hazardous waste as defined in section 342J-2,

or any contaminant the department deems inappropriate. Gray water excludes wastewater from food preparation sinks or dishwashers.”

SECTION 3. Section 342D-70, Hawaii Revised Statutes, is amended to read as follows:

“[§342D-70] Use of gray water [from residential units] for irrigation purposes. (a) The department may authorize any county to implement a gray water recycling program within its jurisdiction. The gray water recycling program shall be limited to the use of gray water [from residential units] for the purpose of irrigating lawns and gardens. All use of gray water shall conform to the state plumbing code, chapter 3-183, Hawaii administrative rules.

(b) The county seeking authorization shall submit to the department for its approval prior to implementation a detailed [residential] gray water recycling plan, including rules and procedures for the proposed program. The plan shall address the appropriateness of the program for the geographic area, the environmental impact of the program on the geographic area, the cost of the program, and any other factors deemed relevant by the department. The department may revoke the authorization at any time.

The department and the counties are encouraged to promote widespread use of gray water consistent with subsection (a) in the interests of water conservation. Any guidelines for the use of gray water for irrigation purposes shall be liberally construed so as to allow widespread use of gray water.

(c) For the purposes of this section, “gray water” [means any water from the domestic plumbing system of a residence except toilets; provided that the discharged gray water is not contaminated with any household hazardous waste as defined in section 342G-1 or any other contaminant the department deems inappropriate.] shall have the same meaning as in section 342D-1.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 27, 2013.)

ACT 234

S.B. NO. 5

A Bill for an Act Relating to Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the department of land and natural resources established conservation easements on public land originally leased for pasture or special livestock use in order to widen Saddle road in the county of Hawaii. As a result, the lessee ranchers suffered serious financial losses.

The department of land and natural resources established conservation easements on approximately six thousand acres of leased lands, thereby preventing the lessees from grazing cattle and effectively depriving the lessees of their use of the land. Although the department of land and natural resources reduced the lease rent in proportion to the taking of the land, the lessees received no other compensation. The final report on discussions with affected ranchers in connection with the Saddle road realignment project prepared in response to Act 236, Session Laws of Hawaii 2001, states that the United States Department

of Transportation Federal Highways Administration will provide compensation to the existing lessees. However, according to the lessees, the department of land and natural resources has taken the position that because Hawaii law did not provide for any compensation, none was required.

Chapter 171, Hawaii Revised Statutes, provides for rent reductions if the land withdrawn causes the land to become unusable for the specific use or uses for which it was originally leased. The law provides no other method of compensation. However, the lessees are still required by their leases to maintain insurance on the land and pay taxes for the land they cannot use for the specific purpose for which it was originally leased.

As a result, several lessees reduced their herd and suffered financial losses from selling their cattle. One of the long-term effects of herd reductions is that lessees cannot mitigate the long-term, fixed costs associated with operating a ranch in the way they anticipated when the lease was negotiated. Thus, the lessees have experienced financial hardship for an extended period of time that is not sufficiently mitigated by a reduction in their lease rent.

S.B. No. 2951, S.D. 2, H.D. 2, C.D. 1, regular session of 2010, attempted to address this issue by providing fair compensation when leased public land for agricultural or pastoral uses is withdrawn, condemned, or taken for public purposes. This measure passed the legislature, but was vetoed by the governor on the grounds that the bill "disproportionately and inappropriately compensates these lessees of public lands above other lessees of State lands." In testimony opposing the measure, the department of land and natural resources posited that rent reduction under existing law is sufficiently fair, and that easements do not prevent the lessee from making any beneficial use of the land even when it prevents them from using the land for its original intended purpose. However, the legislature believes that rent reduction is insufficient, especially if the lessor fails to recognize that the law is designed to take into account the lessee's original intended purpose for leasing the land, and finds that this Act is necessary to provide more equitable relief to lessees of public lands in partial takings or condemnations where the lessee is prevented from using the lands as originally intended.

The purpose of this Act is to provide fair compensation to lessees when a withdrawal or taking of leased land renders the land unusable for the lessees' original intended purposes.

SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§171- Withdrawal or taking of leased land; fair compensation. (a) Upon a withdrawal or taking of leased land pursuant to section 171-37(3) that causes any portion of the land to become unusable for the specific use or uses for which it was leased, the lease rent shall be reduced in proportion to the value of the land withdrawn or made unusable; provided that if any permanent improvement made to or constructed upon the land by the lessee is destroyed or made unusable in the process of the withdrawal or taking, the proportionate value thereof shall be paid to the lessee based upon the unexpired term of the lease. No land that is under cultivation shall be withdrawn or taken until the crops are harvested, unless the board pays the lessee the value of the crops.

Upon a withdrawal, any person with a long-term lease shall be compensated for the present value of all permanent improvements in place at the time of the withdrawal that were legally made to or constructed upon the land by the lessee of the leased land being withdrawn.

In the case of tree-crops, as defined in section 171-37, the board shall pay to the lessee the residual value of the trees taken and, if there are unharvested crops, the value of the crops.

In the case of breeding livestock that cannot be relocated or marketed for the breeding value, the board shall pay to the lessee the difference between the appraised breeding value and the salvage value, including the cost of transportation to a market on the island on which the leased land is located. If there is disagreement between the board and the lessee as to the number of breeding livestock that cannot be relocated or marketed for breeding value, the issue shall be submitted to the department of agriculture to make a determination, which shall be final. The appraised breeding value shall be the fair market value of the livestock, as opposed to net present value, at the time the board approves the withdrawal or taking of a portion or all of the leased land. The fair market value shall be determined by:

- (1) An employee of the department of agriculture qualified to appraise livestock; or
- (2) A disinterested livestock appraiser whose services shall be contracted for by the board,

and the lessee shall be promptly notified of the determination; provided that should the lessee fail to agree upon the fair market value, the lessee may appoint the lessee's own livestock appraiser who together with the board's appraiser shall appoint a third appraiser and the fair market value shall be determined by arbitration as provided in chapter 658A. The lessee shall pay for the lessee's own livestock appraiser, the board shall pay for the board's livestock appraiser, and the cost of the third livestock appraiser shall be borne equally by the lessee and the board. Whenever more than one livestock appraiser is appointed, each shall prepare and submit an independent appraisal report.

(b) In addition to compensation received under subsection (a) or section 171-38, a lessee shall be entitled to compensation for costs attributable to the diminished use of the leased land, including reimbursement for the cost of any insurance required by the board to be maintained, or property tax paid, by the lessee on the portion of the leased land withdrawn or taken; provided that a lessee of land subject to easements shall be entitled to compensation under this subsection only if the easements are placed upon the land subsequent to the original lease and prevent the lessee from using the land for the original intended use."

SECTION 3. Section 171-37, Hawaii Revised Statutes, is amended to read as follows:

"§171-37 Lease restrictions; intensive agricultural and pasture uses. In addition to the restrictions provided in section 171-36, the following restrictions shall apply to all leases for intensive agricultural and pasture uses:

- (1) The lease term shall ~~be~~ not be less than fifteen years nor more than thirty-five years, except that if the type of disposition requires the lessee to occupy the premises as the lessee's own personal residence, ~~it~~ the lease term may be longer than thirty-five years~~, but~~; provided that the lease term shall not be in excess of seventy-five years, ~~and~~ except ~~that~~ in the case of a tree-crop orchard lease, the term ~~of which~~ shall not be in excess of forty-five years~~[-]~~;
- (2) If the land being leased is not immediately productive and requires extensive expenditures for clearing, conditioning of the soil, the securing of water, the planting of grasses, or the construction of improvements, as the result of which a longer term is necessary to

- amortize the lessee's investment, then the lease term may be longer than thirty-five years, but not in excess of fifty-five years[-]; and
- (3) The land leased hereunder, or any portion thereof, shall be subject to withdrawal by the board [~~of land and natural resources~~] at any time during the term of the lease with reasonable notice and [~~without~~] compensation, [~~except as provided herein;~~] as provided in section 171- for public uses or purposes, including residential, commercial, industrial, or resort developments, for constructing new roads or extensions, or changes in line or grade of existing roads, for rights-of-way and easements of all kinds, and shall be subject to the right of the board to remove soil, rock, or gravel as may be necessary for the construction of roads and rights-of-way within or without the demised premises[-]; provided that upon the withdrawal, or upon the taking which causes any portion of the land originally demised to become unusable for the specific use or uses for which it was demised, the rent shall be reduced in proportion to the value of the land withdrawn or made unusable, and if any permanent improvement constructed upon the land by the lessee is destroyed or made unusable in the process of the withdrawal or taking, the proportionate value thereof shall be paid based upon the unexpired term of the lease; provided further that no withdrawal or taking shall be had as to those portions of the land which are then under cultivation with crops until the crops are harvested, unless the board pays to the lessee the value of the crops; and provided further that upon withdrawal any person with a long-term lease shall be compensated for the present value of all permanent improvements in place at the time of withdrawal that were legally constructed upon the land by the lessee to the leased land being withdrawn. In the case of tree crops, the board shall pay to the lessee the residual value of the trees taken and, if there are unharvested crops, the value of the crops also].

"Tree-crop", as used in this section, shall be exclusive of papaya and banana."

SECTION 4. Section 171-38, Hawaii Revised Statutes, is amended to read as follows:

"§171-38 Condemnation of leases. The lease shall provide that whenever a portion of the public land under lease is condemned for public purposes by the State, or any county or city and county, or any other governmental agency or subdivision, the rental shall be reduced in proportion to the value of the portion of the premises condemned, and the lessee shall be entitled to receive from the condemning authority the:

- (1) [~~the value~~] Value of growing crops, if any, [~~which~~] that the lessee is not permitted to harvest; and
- (2) [~~the proportionate~~] Proportionate value of the lessee's permanent improvements [~~so~~] taken in the proportion that it bears to the unexpired term of the lease[-]; provided that the.

The lessee [may], in the alternative, may remove and relocate the lessee's improvements to the remainder of the lands occupied by the lessee. The foregoing rights of the lessee shall not be exclusive of any other to which the lessee may be entitled by law[-], including those rights established in section 171- Where the portion [~~so~~] taken renders the remainder unsuitable for the uses for which the land was leased, the lessee shall have the option to surrender the lessee's lease

and be discharged for any further liability therefor; provided that the lessee may remove the lessee's permanent improvements within [such] a reasonable period allowed by the board [of land and natural resources]."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act shall take effect upon its approval.

(Approved June 27, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 235

S.B. NO. 827

A Bill for an Act Relating to Election Offenses.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 11-91.5, Hawaii Revised Statutes, is amended to read as follows:

"[§11-91.5] Federal, state, and county elections by mail. (a) Any federal, state, or county election held other than on the date of a regularly scheduled primary or general election may be conducted by mail.

(b) The chief election officer shall determine whether a federal or state election, other than a regularly scheduled primary or general election, may be conducted by mail or at polling places.

(c) The county clerk shall determine whether a county election, held other than on the date of a regularly scheduled primary or general election, may be conducted by mail or at polling places. An election by mail in the county shall be under the supervision of the county clerk.

(d) Any ballot cast by mail under this section shall be subject to the provisions applicable to absentee ballots under sections 11-139 and 15-6.

~~[(d)]~~ (e) The chief election officer shall adopt rules pursuant to chapter 91 to provide for uniformity in the conduct of federal, state, and county elections by mail."

SECTION 2. Section 11-139, Hawaii Revised Statutes, is amended to read as follows:

"§11-139 Voting assistance. (a) [Any] Except as otherwise provided, any voter who requires assistance to vote at a polling place or by absentee ballot may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or agent of the voter's union, or]. If the voter requires assistance at a polling place, the voter may choose to receive the assistance of two precinct officials who are not of the same political party. [A] Additionally, a voter needing assistance at a polling place may choose to be handed

a ballot outside the polling place but within one hundred feet thereof or within the polling place parking lot by the precinct officials and in their presence but in a secret manner, mark and return the same to the precinct officials. The voter's employer or agent of that employer, agent of the voter's labor union, or a candidate for any office that is listed on the ballot shall not provide assistance. Written or oral instructions delivered via telephone, electronic means, or mail shall not be deemed assistance prohibited by this section provided the voter's employer or agent of that employer, agent of the voter's labor union, or a candidate for any office listed on the ballot is not physically present with the voter when the instructions are delivered.

(b) ~~[The]~~ If assistance is provided pursuant to subsection (a), the precinct officials providing assistance shall enter in writing in the record book the following:

- (1) The voter's name;
- (2) The fact that the voter cannot read the names on the ballot, if that is the reason for requiring assistance, and otherwise, the specific physical disability which requires the voter to receive assistance; and
- (3) The name or names of the person or persons furnishing the assistance.

(c) Violation of this section by an employer or agent of that employer, agent of the voter's labor union, or a candidate shall constitute election fraud as provided under section 19-3."

SECTION 3. Section 15-6, Hawaii Revised Statutes, is amended to read as follows:

"§15-6 Return envelope, ballot envelope; instructions. The clerk shall provide the absentee voter with the ballots, ballot envelopes, and a return envelope ~~[which] that~~ shall contain a statement to be subscribed to by the voter ~~[which] that~~ affirms the fact that the voter is the person voting~~[-]~~ and that the voter's employer or agent of the employer, agent of the voter's labor union, or any candidate listed on the ballot did not assist the voter, as described in section 11-139, along with the instruction that the voter's ballot will be valid only if the affirmation statement is signed, materials summarizing the provisions in sections 19-3, 19-3.5, 19-4, and 19-6, and any other information prescribed by the rules promulgated by the chief election officer."

SECTION 4. Section 19-3, Hawaii Revised Statutes, is amended to read as follows:

"§19-3 Election frauds. The following persons shall be deemed guilty of an election fraud:

- (1) Every person who, directly or indirectly, personally or through another, gives, procures, or lends, or agrees or offers to give, procure, or lend, or who endeavors to procure, any money or office or place of employment or valuable consideration to or for any elector, or to or for any person for an elector, or to or for any person in order to induce any elector to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, or who does any such act on account of any person having voted or refrained from voting for any particular person at any election;
- (2) Every person who advances or pays, or causes to be paid, any money to, or to the use of, any other person, with the intent that the money, or any part thereof, shall be expended in bribery at any election, or

- for any purpose connected with or incidental to any election; or who knowingly pays or causes to be paid any money to any person in the discharge or repayment of any money wholly or partly expended in bribery at any election, or for any purpose connected with or incidental to any election;
- (3) Every elector who, before, during or after any election, directly or indirectly, personally or through another, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place, or employment for oneself or any other person for voting or agreeing to vote, or for refraining to vote or agreeing to refrain from voting, or for voting or refraining to vote for any particular person or party;
 - (4) Every person who, directly or indirectly, personally or through another, makes use of, or threatens to make use of, any force, violence, or restraint; or inflicts or threatens to inflict any injury, damage, or loss in any manner, or in any way practices intimidation upon or against any person in order to induce or compel the person to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, at any election, or on account of the person having voted or refrained from voting, or voted or refrained from voting for any particular person or party; or who by abduction, distress, or any device or contrivance impedes, prevents, or otherwise interferes with the free exercise of the elective franchise;
 - (5) Every person who, at any election, votes or attempts to vote in the name of any other person, living or dead, or in some fictitious name, or who, having once voted, votes or attempts to vote again, or knowingly gives or attempts to give more than one ballot for the same office at one time of voting;
 - (6) Every person who, before or during an election, knowingly publishes a false statement of the withdrawal of any candidate at the election;
 - (7) Every person who induces or procures any person to withdraw from being a candidate at an election in consideration of any payment or gift or valuable consideration; or of any threat; and every candidate who withdraws from being a candidate in pursuance of such inducement or procurement;
 - (8) Every public officer by law required to do or perform any act or thing with reference to any of the provisions in any law concerning elections who wilfully fails, neglects, or refuses to do or perform the same, or who is guilty of any wilful violation of any of the provisions thereof;
 - (9) Any person wilfully tampering or attempting to tamper with, disarrange, deface, or impair in any manner whatsoever, or destroy any voting machine while the same is in use at any election, or who, after the machine is locked in order to preserve the registration or record of any election made by the same, tampers or attempts to tamper with any voting machine; ~~and~~
 - (10) Every person who, directly or indirectly, personally or through another, wilfully designs, alters, accesses, or programs any electronic voting system to cause the system to inaccurately record, tally, or report votes cast on the electronic voting system~~[-]; and~~
 - (11) Every person who assists a voter in the completion of a ballot in violation of section 11-139."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 27, 2013.)

ACT 236

H.B. NO. 1268

A Bill for an Act Relating to Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the nine-hundred-ninety-nine-year homestead program is becoming increasingly difficult to manage, because conflicts often arise between family members who may have an interest in a nine-hundred-ninety-nine-year lease. Existing leases are unique because they can be assigned only to members of the lessee's family.

The purpose of this Act is to expand the eligibility of potential assignees of a homestead lease to include trustees of land trusts created for the purposes of managing and holding a homestead for the benefit of the lessee and lessee's family members.

SECTION 2. Section 171-99, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) ~~[Assignment;]~~ Transfer or assignment; certificate of occupation or homestead lease. No existing certificate of occupation or existing homestead lease, or fractional interest thereof, shall be transferable or assignable except by conveyance, devise, bequest, or intestate succession and with the prior approval of the board of land and natural resources; provided that transfer or assignment by conveyance, devise, or bequest shall be limited to a member or members of the occupier's or lessee's family~~[-]~~ or in the case of a homestead lease, to any person or persons designated as a trustee of a land trust.

For the purposes of this section~~[-]~~ "family":

"Family" means the spouse, reciprocal beneficiary, children, parents, siblings, grandparents, grandchildren, nieces, nephews, a parent's siblings, children of a parent's siblings, and grandchildren of a parent's siblings, of the occupier or lessee.

"Land trust" means a trust created for the purposes of managing and holding the homestead leasehold estate for the benefit of the lessee and lessee's family members. The lessee may be the trustee of the trust.

All the successors shall be subject to the performance of the unperformed conditions of the certificate of occupation or the homestead lease."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 27, 2013.)

ACT 237

S.B. NO. 606

A Bill for an Act Relating to the University of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that hiring students at universities benefits both the student and the university. Hired students have the ability to earn income as they are learning from their jobs either on-campus or off-campus. Many campus programs are highly dependent on entry level, as well as experienced and specialized, flexible staff. At the University of Hawaii, approximately four thousand students work an average of twelve hours per week while enrolled as full-time students. These student employees depend on part-time work to help pay for tuition and educational and living expenses. The University of Hawaii spends approximately \$22,000,000 system-wide for undergraduate and graduate student employees, funded by general funds, tuition and fees, and federal work-study funds.

The purpose of this Act is to provide funds for the University of Hawaii to pay student employee salaries at new or expanded worksites on each campus.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2013-2014 to fund students employed at new or expanded worksites at each University of Hawaii campus; provided that:

- (1) The vice chancellor for students at each University of Hawaii campus shall be allocated funds according to full-time student enrollment; and
- (2) Funding priority may be given to students employed for university programs supporting access, retention, and diversity over other student employees.

The sum appropriated shall be expended by the University of Hawaii for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved June 27, 2013.)

ACT 238

S.B. NO. 1280

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist a Seawater Project.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that support for the development of efficient energy systems in Hawaii, which is geographically isolated from sources of oil, continues to be in the public interest.

The legislature further finds that the natural energy laboratory of Hawaii authority currently has the infrastructure to support a seawater air conditioning district cooling system to serve Kona and nearby areas on the island of Hawaii.

The issuance of special purpose revenue bonds and refunding special purpose revenue bonds under this Act to assist Kona SWAC, LLC, in constructing a portion of its district cooling system will make the statewide development of such a system more economically feasible and provide numerous benefits.

Among other benefits, it is expected that this system will make significant use of an existing fifty-five inch deep seawater pipeline at the natural energy laboratory of Hawaii authority in which capacity remains mostly unused, and that additional offshore work or offshore environmental permits will be unnecessary.

SECTION 2. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 3. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$40,000,000, in one or more series, for the purpose of assisting Kona SWAC, LLC, a Hawaii limited liability company, for the planning, design, construction, equipping, acquisition of land, including easements or other interests therein, and other tangible assets for a seawater air conditioning district cooling facility and chilled water distribution system. The legislature hereby finds and determines that a seawater air conditioning district cooling facility and chilled water distribution system constitute a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

SECTION 4. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist an industrial enterprise.

SECTION 5. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2018, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 3 and to refund special purpose revenue bonds authorized in this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 3. In making this determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 6. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2018.

SECTION 7. This Act shall take effect on July 1, 2013.

(Approved June 27, 2013.)

ACT 239

H.B. NO. 1374

A Bill for an Act Relating to Procurement.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the procurement process is in need of reform so that taxpayers dollars are not wasted. Remedial measures can cost taxpayers more money in the long term. The usual principle of awarding

contracts to the lowest bidder may lead to substandard work, because contractors may artificially lower bids to gain a contract, in spite of a lack of qualifications or, even worse, a record of poor performance in the past.

Therefore, the purpose of this Act is to allow procurement officials the authority to choose the appropriate source selection method to meet the circumstances of each procurement.

SECTION 2. Section 103D-301, Hawaii Revised Statutes, is amended to read as follows:

“~~§§103D-301~~ Methods of source selection. Unless otherwise authorized by law, all contracts shall be awarded ~~[by competitive sealed bidding]~~ pursuant to ~~[section 103D-302, except as provided in:]~~ the following sections, as applicable:

- (1) Section 103D-302 (Competitive sealed bids);
- ~~(1)~~ (2) Section 103D-303 (Competitive sealed proposals);
- ~~(2)~~ (3) Section 103D-304 (Professional services procurement);
- ~~(3)~~ (4) Section 103D-305 (Small purchases);
- ~~(4)~~ (5) Section 103D-306 (Sole source procurement); and
- ~~(5)~~ (6) Section 103D-307 (Emergency procurements).”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. This Act shall take effect on July 1, 2013.

(Approved June 27, 2013.)

ACT 240

H.B. NO. 1207

A Bill for an Act Relating to Human Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that fraud, abuse, and waste cost state medicaid programs an estimated \$18,000,000,000 per year on a national level. The Center for Program Integrity within the Centers for Medicare and Medicaid Services stated that the problems with improper billing payments arise from incorrect coding (errors), medically unnecessary services (waste), incorrect implementation of rules through improper billing practices (abuse), and intentional deception by billing for services that were never provided (fraud).

The United States Government Accountability Office submitted written testimony, “Medicare and Medicaid Fraud, Waste, and Abuse”, dated March 9, 2011, which indicated that improper payments, including over-payments and under-payments, put social services programs at risk. The office declared medicare and medicaid as high-risk programs that can be compromised by fraud, waste, and abuse, and identified five key strategies to help reduce fraud, waste, abuse, and improper payments in medicare and medicaid.

Hawaii’s medicaid program experienced an average monthly enrollment of approximately 290,496 members at the close of fiscal year 2012. In 2012, the

Med-QUEST division experienced an enrollment increase of five per cent, reflecting a total increase of more than thirty-five per cent since 2008. The Med-QUEST division shifted from a fee-for-service delivery system to a managed care system of health care delivery with approximately one per cent of medicaid clients remaining in the limited fee-for-service program.

The legislature finds that Hawaii has contracted with managed care health plans for the State's medicaid populations, which include QUEST health plans and QUEST Expanded Access health plans, with the department of human services retaining federally-mandated accountability and oversight of these managed care plans, as mandated by the Balanced Budget Act of 1997, Section 438: Managed Care: Subpart H-Certifications and Program Integrity; Section 438.66: Monitoring Procedures.

The legislature recognizes that the problems of fraud, abuse, and waste within medicaid programs have led to higher costs for each state during the critical time of actuarial rate analysis and the setting of managed care health plan contracts.

The federal Patient Protection and Affordable Care Act of 2010 required each state to submit state plan amendments by December 31, 2010, to detail how it will establish its recovery audit contractor programs to increase post-payment reviews to identify payment errors and recoup overpayments. Recovery audit contractor programs review medicaid provider claims to identify and recover overpayments and identify underpayments made for services provided under medicaid state plans and medicaid waivers.

The purpose of this Act is to require the department of human services to report on the State's program integrity compliance with the federal Patient Protection and Affordable Care Act of 2010 as it relates to medicaid program integrity within managed care health plans, the fee-for-service program, and the children's health insurance program.

SECTION 2. The department of human services shall submit interim reports to the legislature no later than twenty days prior to the convening of the regular sessions of 2015 and 2016 on the State's program integrity compliance with the federal Patient Protection and Affordable Care Act of 2010 with respect to medicaid program integrity within the managed care health plans, fee-for-service program, and the children's health insurance program, including the timelines and plans for compliance with the federal Patient Protection and Affordable Care Act of 2010 for fiscal years 2013-2014, 2014-2015, and 2015-2016.

Each report to the legislature shall include, at a minimum, for fiscal years 2013-2014 and 2014-2015, the following information or the department of human services' compliance status with various provisions of the federal Patient Protection and Affordable Care Act of 2010 as they relate to:

- (1) Implementation of provider enrollment, screening verification, and termination programs;
- (2) Implementation of recovery audit contractor programs;
- (3) Implementation of processes to provide managed care oversight of the department's mandated fraud and abuse programs;
- (4) Implementation of means to prohibit false statements and representations, including the department's processes of verification of the beneficiary receipt of services claimed by managed care health plans via explanation of benefits forms or other approved methods;
- (5) The projected cost savings per program per fiscal year;
- (6) Activities taken by the department's internal program integrity section to prevent and reduce fraud, waste, and abuse, including overpayments recovered and number of fraud reports received by the

department from the QUEST and QUEST Expanded Access health plans, fee-for-service program, and the children's health insurance program each cited fiscal year; and

- (7) Number of referrals to the department of the attorney general's medicaid fraud control unit.

SECTION 3. The department of human services shall submit a report on the final status of implementing and complying with the federal Patient Protection and Affordable Care Act of 2010 with respect to program integrity, to the legislature no later than twenty days before the convening of the regular session of 2017.

SECTION 4. This Act shall take effect on July 1, 2014.

(Approved June 27, 2013.)

ACT 241

H.B. NO. 1424

A Bill for an Act Relating to the Acquisition of Resource Value Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Lipoa Point-Honolua is one of the most iconic landmarks in Hawaii. Honolua is rich in marine resources and historical and archaeological sites, and is one of the most popular recreational areas for locals and tourists alike, offering some of the best snorkeling and surfing conditions on the island of Maui. Nationally recognized as a marine preserve, it has attracted federal funding and programs due to having some of the highest fish assemblage characteristics of all the Hawaiian islands. Additionally, Honolua is considered to have one of the most diverse, unique, and abundant reef formations, providing habitat for rare coral species.

Historically, not only is Honolua Bay significant for Hawaiian canoe voyaging as being the departure point for the Hōkūleʻa maiden voyage in 1976, it is also the site of several archaeological finds that were identified by Bishop Museum staff in 1974, including two heiau, boulders with grinding surfaces, house platforms, burial mounds, and agricultural terraces.

The legislature further finds that, due to its iconic reputation, Honolua Bay has drawn countless visitors to Hawaii, which helps generate revenue by bolstering the State's important tourist industry. Honolua is known worldwide as a premier winter session, big wave surf spot, a sector of the surfing industry that is currently eclipsing the Association of Surfing Professionals World Championship Tour.

The legislature finds, however, that recent contemplation of zoning changes to the area has jeopardized the pension benefits for numerous retirees, as the parcel was pledged against a pension fund established by the retirees' former employer in order to make sure that kupuna would continue to receive the benefits that they worked for. If this pension fund should fail, many of the pensioners would have to turn to state services and programs, thereby straining the social safety net, especially in an area where resources are already scarce.

The legislature further finds that acquiring this land for preservation would help protect the area's pristine condition while providing funds to ensure the adequate capitalization of the pension fund. The legislature also finds that the owners of the land have pledged that any revenues derived from the sale of

this parcel would be pledged completely against the pension fund, thereby alleviating concerns of the social safety net being stretched even further.

The purpose of this Act is to require the department of land and natural resources to engage to acquire the parcel of land located at Lipoa Point. It is the legislature's intent that the department explore options to protect and preserve the area's pristine condition, while ensuring the adequate capitalization of the pension fund against which the parcel was pledged.

SECTION 2. The department of land and natural resources, in consultation with the Hawaiian Islands Land Trust, shall engage to acquire the parcel of land located at Lipoa Point, identified as TMK 2-4-1-001-010-0000.

SECTION 3. To the maximum extent practicable, the department of land and natural resources shall ensure that the seller of the land identified in section 2 of this Act uses the proceeds of the sale to benefit the pension plan of retirees of the Maui Land and Pineapple Company, Inc.

This section shall not be construed or interpreted or deemed to obligate the State for the pension plan liabilities of employees and retirees of the Maui Land and Pineapple Company, Inc.

SECTION 4. This Act shall take effect on July 1, 2013.

(Approved June 28, 2013.)

ACT 242

S.B. NO. 498

A Bill for an Act Relating to Emergency Medical Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that residents of the island of Maui would greatly benefit from the addition of a Maalaea-based special emergency medical response vehicle to augment the Maui county emergency medical services system for residents of west and south Maui. The population of these districts has significantly increased over the years, which has corresponded with a steady increase of approximately one thousand calls per year for emergency medical services.

The legislature further finds that the population growth and increase in call volume in south and west Maui affect the timely response capabilities of the two ambulances that serve residents in these districts. For example, the timeline to reach the only acute care hospital on Maui may be forty-five minutes or more if the ambulance that responds to a call for emergency medical services must respond from an out-of-district location.

The legislature additionally finds that a timely response to a 911 call is critical to increase the likelihood of a good outcome for an injured individual. Unfortunately, these out-of-district responses, especially into west and south Maui, have increased twenty-five per cent over the past four years. Currently, if the Lahaina and Napili ambulances are out on a call and another emergency call comes in for the west side of Maui, the Kihei station responds if available, potentially leaving the south side of Maui "uncovered" during that time. The removal of ambulances from their own districts creates a domino effect of missing emergency medical services to other areas.

The legislature also finds that the last time new emergency medical services ambulance units were added on Maui was in 2004. A special emergency medical response vehicle unit for the Maui emergency medical services sys-

tem that is based in Maalaea would substantially address the steady increase in calls for emergency medical services and out-of-district responses. Modeled after successful units and strategies used on Oahu and the mainland, this special emergency medical response vehicle unit will be equipped with appropriate life-saving, emergency response equipment and staffed by a state-certified paramedic. Although the special emergency medical response vehicle will not be used for patient transport, it will arrive at the scene if the resident ambulances are out of the district, provide advanced life support services to augment the basic services of fire department first responders, or quickly arrive to a remote area while waiting for the medevac helicopter. This full complement of advanced life support care will save lives and stabilize patients in the crucial initial stage of injury, illness, or cardiac arrest.

The legislature finds that the new special emergency medical response vehicle unit will help reduce death and disability among residents and visitors on the island of Maui by supporting the two existing ambulance units in each of the busiest regions of west and south Maui, as well as by being available to assist central Maui.

Coupled with Maui's significant growth and aging population, the addition of a special emergency medical response vehicle is needed and cost-effective. Whereas an advanced life support staffed ambulance unit costs approximately \$1,200,000, a special emergency medical response vehicle unit costs approximately \$600,000. The special emergency medical response vehicle unit is a more effective use of scarce resources, well worth the investment, and provides better emergency medical services coverage and response to emergency situations. From its base in Maalaea, the special emergency medical response vehicle unit will be well situated to arrive at calls in the west, south, or central districts of Maui in fifteen minutes or less.

The legislature concludes that as Maui's population and demand for healthcare continue to grow, a Maalaea-based special emergency medical response vehicle unit will emerge as a key component of effective pre-hospital medicine on Maui.

The purpose of this Act is to appropriate funds to establish a twenty-four-hour, seven-days-a-week, special emergency medical response vehicle unit to be based in the Maalaea area on Maui, including acquisition of a vehicle, equipment, and personnel costs for twenty-four-hour, seven-days-a-week staffing by state-certified emergency medical service personnel.

SECTION 2. There is appropriated out of the emergency medical services special fund the sum of \$600,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 to establish and fund a twenty-four-hour, seven-days-a-week, special emergency medical response vehicle unit based in the Maalaea area on Maui that is appropriately staffed at all times by state-certified emergency medical service personnel, including acquisition of a vehicle, equipment, and personnel costs.

The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved June 28, 2013.)

A Bill for an Act Relating to Small Boat Harbors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the study of Hawaiian culture is required by the Hawaii constitution, as well as being vitally important to the people of Hawaii. Article X, section 4 of the Hawaii constitution states:

The State shall promote the study of Hawaiian culture, history and language.

The State shall provide for a Hawaiian education program consisting of language, culture and history in the public schools. The use of community expertise shall be encouraged as a suitable and essential means in furtherance of the Hawaiian education program.

The legislature also finds that for thousands of years, native Hawaiians traveled the Pacific Ocean in voyaging canoes. The creation of the canoe itself was of an educational, social, and spiritual character. The legislature further finds that, given the importance of the canoe to Hawaiian culture, opportunities to educate others about native Hawaiian canoes should be supported by the State.

The purpose of this Act is to provide mooring space in small boat harbors for native Hawaiian canoes used for nonprofit educational purposes.

SECTION 2. Chapter 200, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§200- Native Hawaiian canoes; education. (a) In all state small boat harbors, the department shall accommodate the mooring of native Hawaiian canoes owned or leased by a nonprofit corporation, association, organization, or other duly chartered entity that operates native Hawaiian canoes for educational purposes.

(b) Any owner or lessee of a native Hawaiian canoe accommodated under subsection (a) shall submit to the department an annual report describing how the educational activities that were conducted during the previous year used, involved, or focused on the native Hawaiian canoe. The report shall include:

- (1) A description of each educational activity;
- (2) The date of each educational activity; and
- (3) The number of participants in each educational activity.

(c) The chairperson may adopt rules pursuant to chapter 91 to implement this section.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 28, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 244

H.B. NO. 1328

A Bill for an Act Relating to the Kaho'olawe Island Reserve.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to make permanent the exemption for the procurement of food or fuel products necessary for the Kaho'olawe island reserve commission to carry out the purposes of chapter 6K, Hawaii Revised Statutes.

SECTION 2. Act 159, Session Laws of Hawaii 2010, is amended by amending section 4 to read as follows:

"SECTION 4. This Act shall take effect on July 1, 2010; provided that the amendment made to section 103D-102(c), Hawaii Revised Statutes, by this Act shall not be repealed when section 103D-102, Hawaii Revised Statutes, is reenacted on July 1, 2012, by section 14 of Act 175, Session Laws of Hawaii 2009[; provided further that this Act shall be repealed on July 1, 2013; and provided further that, on July 1, 2013, section 103D-102, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of Act 175, Session Laws of Hawaii 2009]."

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act shall take effect on June 30, 2013.

(Approved June 28, 2013.)

ACT 245

H.B. NO. 1068

A Bill for an Act Relating to Human Trafficking.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 371, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§371- National Human Trafficking Resource Center hotline; posting requirement; penalty. (a) Every employer specified in subsection (b) shall post and keep posted in a place readily accessible to individuals in the employer's employ a poster no smaller than eight and one-half inches by eleven inches in size that states the following:

"If you or someone you know is being forced to engage in any activity and cannot leave – whether it is commercial sex, housework, farm work, or any other similar activity – call the National Human Trafficking Resource Center Hotline at 1-888-373-7888 to access help and services.

Victims of human trafficking are protected under United States and Hawaii law.

The hotline is:

- (1) Available twenty-four hours a day, seven days a week;
- (2) Toll free;
- (3) Operated by a non-profit, non-governmental organization;
- (4) Anonymous and confidential;

- (5) Accessible in one hundred seventy languages; and
- (6) Able to provide help, referral to services, training, and general information.”
- (b) For purposes of this section, “employer” means any person that:
 - (1) Holds a class 5 or class 11 liquor license pursuant to section 281-31;
 - (2) Maintains a massage therapy establishment that employs five or more people; or
 - (3) Employs one or more erotic or nude massagers or erotic or nude dancers as defined in section 712-1210.
- (c) A poster required under subsection (a) shall be printed in English and the director may supplement the required information.
- (d) The department shall make available on its public website an electronic version of the poster required by subsection (a) for employers to print.
- (e) Any employer who wilfully and knowingly fails, neglects, or refuses to perform any act required by this section shall be fined not more than \$100 for each separate offense. Each day the violation continues shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect on January 1, 2014.

(Approved July 1, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 246

H.B. NO. 1187

A Bill for an Act Relating to Human Trafficking.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. Chapter 8, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§8- Human Trafficking Awareness Month. The month of January shall be known and designated as “Human Trafficking Awareness Month” to promote public awareness of human trafficking as a significant societal and public health crisis. This month is not and shall not be construed to be a state holiday.”

PART II

SECTION 2. The purpose of this part is to recognize the vulnerability of children who are victims of sex and labor trafficking and to ensure the provision of necessary and appropriate services within the scope of the department of human services for children served by the child welfare services branch.

The amendment to the definition of “harm” in chapter 587A, Hawaii Revised Statutes, clarifies that “harm” includes children who are victims of sex and labor trafficking and will ensure that these children will receive appropriate services, treatment, and permanent plans.

To be consistent with the amendment to the definition of “harm”, an amendment to the definition of what constitutes reportable child abuse and ne-

glect as required in chapter 350, Hawaii Revised Statutes, will clarify that sex and labor trafficking are also reportable acts.

SECTION 3. Section 350-1, Hawaii Revised Statutes, is amended by amending the definition of “child abuse or neglect” to read as follows:

““Child abuse or neglect” means the acts or omissions of any person who, or legal entity which, is in any manner or degree related to the child, is residing with the child, or is otherwise responsible for the child’s care, that have resulted in the physical or psychological health or welfare of the child, who is under the age of eighteen, to be harmed, or to be subject to any reasonably foreseeable, substantial risk of being harmed. The acts or omissions are indicated for the purposes of reports by circumstances that include but are not limited to:

- (1) When the child exhibits evidence of:
 - (A) Substantial or multiple skin bruising or any other internal bleeding;
 - (B) Any injury to skin causing substantial bleeding;
 - (C) Malnutrition;
 - (D) Failure to thrive;
 - (E) Burn or burns;
 - (F) Poisoning;
 - (G) Fracture of any bone;
 - (H) Subdural hematoma;
 - (I) Soft tissue swelling;
 - (J) Extreme pain;
 - (K) Extreme mental distress;
 - (L) Gross degradation; or
 - (M) Death; and

such injury is not justifiably explained, or when the history given concerning such condition or death is at variance with the degree or type of such condition or death, or circumstances indicate that such condition or death may not be the product of an accidental occurrence; or
- (2) When the child has been the victim of sexual contact or conduct, including, but not limited to, sexual assault as defined in the Penal Code, molestation, sexual fondling, incest, or prostitution; obscene or pornographic photographing, filming, or depiction; or other similar forms of sexual exploitation~~[-or]~~, including but not limited to acts that constitute an offense pursuant to section 712-1202(1)(b);
or
- (3) When there exists injury to the psychological capacity of a child as is evidenced by an observable and substantial impairment in the child’s ability to function; or
- (4) When the child is not provided in a timely manner with adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision; or
- (5) When the child is provided with dangerous, harmful, or detrimental drugs as defined by section 712-1240; provided that this paragraph shall not apply when such drugs are provided to the child pursuant to the direction or prescription of a practitioner, as defined in section 712-1240~~[-];~~ or
- (6) When the child has been the victim of labor trafficking under chapter 707.”

SECTION 4. Section 587A-4, Hawaii Revised Statutes, is amended by amending the definition of “harm” to read as follows:

““Harm” means damage or injury to a child’s physical or psychological health or welfare, where:

- (1) The child exhibits evidence of injury, including, but not limited to:
 - (A) Substantial or multiple skin bruising;
 - (B) Substantial external or internal bleeding;
 - (C) Burn or burns;
 - (D) Malnutrition;
 - (E) Failure to thrive;
 - (F) Soft tissue swelling;
 - (G) Extreme pain;
 - (H) Extreme mental distress;
 - (I) Gross degradation;
 - (J) Poisoning;
 - (K) Fracture of any bone;
 - (L) Subdural hematoma; or
 - (M) ~~Death~~;

and the injury is not justifiably explained, or the history given concerning the condition or death is not consistent with the degree or type of the condition or death, or there is evidence that the condition or death may not be the result of an accident;
- (2) The child has been the victim of sexual contact or conduct, including sexual assault; sodomy; molestation; sexual fondling; incest; prostitution; obscene or pornographic photographing, filming, or depiction; or other similar forms of sexual exploitation[~~;~~], including but not limited to acts that constitute an offense pursuant to section 712-1202(1)(b);
- (3) The child’s psychological well-being has been injured as evidenced by a substantial impairment in the child’s ability to function;
- (4) The child is not provided in a timely manner with adequate food; clothing; shelter; supervision; or psychological, physical, or medical care; [~~or~~]
- (5) The child is provided with dangerous, harmful, or detrimental drugs as defined in section 712-1240, except when a child’s family administers drugs to the child as directed or prescribed by a practitioner as defined in section 712-1240[~~;~~]; or
- (6) The child has been the victim of labor trafficking under chapter 707.”

PART III

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act shall take effect on July 1, 2013.

(Approved July 1, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 247

S.B. NO. 192

A Bill for an Act Relating to Prostitution.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 712, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§712- Solicitation of a minor for prostitution. (1) A person eighteen years of age or older commits the offense of solicitation of a minor for prostitution if the person offers or agrees to pay a fee to a minor to engage in sexual conduct.

(2) Solicitation of a minor for prostitution is a class C felony.

(3) A person convicted of committing the offense of solicitation of a minor for prostitution shall be imposed a fine of not less than \$2,000; provided that \$2,000 of the imposed fine shall be credited to the general fund.

(4) For purposes of this section:

“Minor” means a person who is less than eighteen years of age.

“Sexual conduct” has the same meaning as in section 712-1200(2).”

SECTION 2. Section 663J-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A claim under this chapter may not be brought against a person more than ~~[two]~~ six years after an act of promoting prostitution by coercion by that person.”

SECTION 3. Section 712-1200, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

“(4) A person convicted of committing the offense of prostitution shall be sentenced as follows:

(a) For the first offense, when the court has not deferred further proceedings pursuant to chapter 853, a ~~[minimum]~~ fine of not less than \$500 but not more than \$1,000 and the person may be sentenced to a term of imprisonment of not more than thirty days or probation; provided that in the event the convicted person defaults in payment of the ~~[\$500]~~ fine, and the default was not contumacious, the court may sentence the person to perform services for the community as authorized by section 706-605(1).

(b) For any subsequent offense, a ~~[minimum]~~ fine of not less than \$500 but not more than \$1,000 and a term of imprisonment of thirty days or probation, without possibility of deferral of further proceedings pursuant to chapter 853 and without possibility of suspension of sentence.

(c) For the purpose of this subsection, if the court has deferred further proceedings pursuant to chapter 853, and notwithstanding any provision of chapter 853 to the contrary, the defendant shall not be eligible to apply for expungement pursuant to section 831-3.2 until four years following discharge. A plea previously entered by a defendant under section 853-1 for a violation of this section shall be considered a prior offense. When the court has ordered a sentence of probation, the court may impose as a condition of probation that the defendant complete a course of prostitution intervention

classes; provided that the court may only impose such condition for one term of probation.”

SECTION 4. Section 712A-4, Hawaii Revised Statutes, is amended to read as follows:

“§712A-4 Covered offenses. Offenses for which property is subject to forfeiture under this chapter are:

- (a) All offenses that specifically authorize forfeiture;
- (b) Murder, kidnapping, labor trafficking, gambling, criminal property damage, robbery, bribery, extortion, theft, unauthorized entry into motor vehicle, burglary, money laundering, trademark counterfeiting, insurance fraud, promoting a dangerous, harmful, or detrimental drug, commercial promotion of marijuana, methamphetamine trafficking, manufacturing of a controlled substance with a child present, promoting child abuse, promoting prostitution, solicitation of a minor for prostitution, habitual solicitation of prostitution, or electronic enticement of a child that is chargeable as a felony offense under state law;
- (c) The manufacture, sale, or distribution of a controlled substance in violation of chapter 329, promoting detrimental drugs or intoxicating compounds, promoting pornography, promoting pornography for minors, or ~~[promoting prostitution;]~~ solicitation of prostitution near schools or public parks, which is chargeable as a felony or misdemeanor offense, but not as a petty misdemeanor, under state law; and
- (d) The attempt, conspiracy, solicitation, coercion, or intimidation of another to commit any offense for which property is subject to forfeiture.”

SECTION 5. Section 846E-1, Hawaii Revised Statutes, is amended by amending the definition of “sexual offense” to read as follows:

““Sexual offense” means an offense that is:

- (1) Set forth in section 707-730(1)(a), 707-730(1)(b), 707-730(1)(c), 707-730(1)(d) or (e), 707-731(1)(a), 707-731(1)(b), 707-731(1)(c), 707-732(1)(a), 707-732(1)(b), 707-732(1)(c), 707-732(1)(d), 707-732(1)(e), 707-732(1)(f), 707-733(1)(a), 707-733.6, 712-1202(1)(a), 712-1202(1)(b), or 712-1203(1), but excludes conduct that is criminal only because of the age of the victim, as provided in section 707-730(1)(b), or section 707-732(1)(b) if the perpetrator is under the age of eighteen;
- (2) An act defined in section 707-720 if the charging document for the offense for which there has been a conviction alleged intent to subject the victim to a sexual offense;
- (3) An act that consists of:
 - (A) Criminal sexual conduct toward a minor, including but not limited to an offense set forth in section 707-759;
 - (B) Solicitation of a minor who is less than fourteen years old to engage in sexual conduct;
 - (C) Use of a minor in a sexual performance;
 - (D) Production, distribution, or possession of child pornography chargeable as a felony under section 707-750, 707-751, or 707-752;
 - (E) Electronic enticement of a child chargeable under section 707-756 or 707-757 if the offense was committed with the intent to

promote or facilitate the commission of another covered offense as defined in this section; or

- (F) Solicitation of a minor ~~[to practice]~~ for prostitution[;] in violation of section 712- :
- (4) A violation of privacy under section 711-1110.9;
- (5) A criminal offense that is comparable to or that exceeds a sexual offense as defined in paragraphs (1) through (4) or any federal, military, or out-of-state conviction for any offense that under the laws of this State would be a sexual offense as defined in paragraphs (1) through (4); or
- (6) An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraphs (1) through (5)."

SECTION 6. Section 846E-10, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Tier 1 offenses. A covered offender who has maintained a clean record for the previous ten years, excluding any time the offender was in custody or civilly committed, and who has substantially complied with the registration requirements of this chapter for the previous ten years, or for the portion of that ten years that this chapter has been applicable, and who is not a repeat covered offender may petition the court, in a civil proceeding, for termination of registration requirements; provided that the covered offender's most serious covered offense is one of the following:

- (1) Any offense set forth in section 707-732(1)(d) or (e), 707-733(1)(a), 707-752, 707-759, 711-1110.9, 712-1202(1)(a), ~~[or]~~ 712-1203(1)[;], or 712- :
- (2) An offense set forth in section 707-721 or 707-722; provided that the offense involves unlawful imprisonment of a minor by someone other than a parent;
- (3) An offense set forth in section 707-757 that includes an intent to promote or facilitate the commission of another covered offense as defined in section 846E-1;
- (4) An offense that is an attempt, criminal solicitation, or criminal conspiracy to commit any of the offenses in paragraph (1), (2), or (3);
- (5) Any criminal offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4); or
- (6) Any federal, military, or out-of-state offense that is comparable to one of the offenses in paragraph (1), (2), (3), or (4)."

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 9. This Act shall take effect upon its approval.

(Approved July 1, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Labor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 378-1, Hawaii Revised Statutes, is amended by amending the definition of "employment" to read as follows:

"'Employment' means any service performed by an individual for another person under any contract of hire, express or implied, oral or written, whether lawfully or unlawfully entered into. Employment does not include services by an individual employed as a domestic in the home of any person[-], except as provided in section 378-2(a)(9)."

SECTION 2. Section 378-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) It shall be an unlawful discriminatory practice:

- (1) Because of race, sex[;] including gender identity or expression, sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, or domestic or sexual violence victim status if the domestic or sexual violence victim provides notice to the victim's employer of such status or the employer has actual knowledge of such status:
 - (A) For any employer to refuse to hire or employ or to bar or discharge from employment, or otherwise to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment;
 - (B) For any employment agency to fail or refuse to refer for employment, or to classify or otherwise to discriminate against, any individual;
 - (C) For any employer or employment agency to print, circulate, or cause to be printed or circulated any statement, advertisement, or publication or to use any form of application for employment or to make any inquiry in connection with prospective employment, that expresses, directly or indirectly, any limitation, specification, or discrimination;
 - (D) For any labor organization to exclude or expel from its membership any individual or to discriminate in any way against any of its members, employer, or employees; or
 - (E) For any employer or labor organization to refuse to enter into an apprenticeship agreement as defined in section 372-2; provided that no apprentice shall be younger than sixteen years of age;
- (2) For any employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against any individual because the individual has opposed any practice forbidden by this part or has filed a complaint, testified, or assisted in any proceeding respecting the discriminatory practices prohibited under this part;
- (3) For any person, whether an employer, employee, or not, to aid, abet, incite, compel, or coerce the doing of any of the discriminatory practices forbidden by this part, or to attempt to do so;
- (4) For any employer to violate the provisions of section 121-43 relating to nonforfeiture for absence by members of the national guard;
- (5) For any employer to refuse to hire or employ or to bar or discharge from employment any individual because of assignment of income

- for the purpose of satisfying the individual's child support obligations as provided for under section 571-52;
- (6) For any employer, labor organization, or employment agency to exclude or otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;
 - (7) For any employer or labor organization to refuse to hire or employ, bar or discharge from employment, withhold pay from, demote, or penalize a lactating employee because the employee breastfeeds or expresses milk at the workplace. For purposes of this paragraph, the term "breastfeeds" means the feeding of a child directly from the breast; [øf]
 - (8) For any employer to refuse to hire or employ, bar or discharge from employment, or otherwise to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment of any individual because of the individual's credit history or credit report, unless the information in the individual's credit history or credit report directly relates to a bona fide occupational qualification under section 378-3(2)[-]; or
 - (9) For any employer to discriminate against any individual employed as a domestic, in compensation or in terms, conditions, or privileges of employment because of the individual's race, sex including gender identity or expression, sexual orientation, age, religion, color, ancestry, disability, or marital status."

SECTION 3. Section 387-1, Hawaii Revised Statutes, is amended as follows:

1. By adding three new definitions to be appropriately inserted and to read:

"Casual basis" means employment that is:

- (1) Irregular or intermittent; and
- (2) Performed for a family or household who directly employs the individual providing the services.

Employment is not on a casual basis, whether performed for one or more family or household employers, if the employment for all employers exceeds twenty hours per week in the aggregate. For babysitting or companionship services for the aged or infirm, employment is not on a casual basis if the service is performed by an individual whose vocation is the provision of babysitting or companionship services.

"Companionship services for the aged or infirm" means those services that provide fellowship, care, and protection for an individual who, because of advanced age or physical or mental infirmity, cannot care for the individual's own needs. "Companionship services for the aged or infirm" does not include services relating to the care and protection of the aged or infirm that require and are performed by trained personnel, such as a registered or practical nurse.

"Domestic service" means services of a household nature performed by an employee in or about a private home (permanent or temporary) of the person by whom he or she is employed. The term includes, but is not limited to, services performed by employees such as cooks, waiters, butlers, valets, maids, housekeepers, governesses, janitors, laundresses, caretakers, handymen, gardeners, and chauffeurs of automobiles for family use. The term also includes babysitters whose employment is not on a casual basis."

2. By amending the definition of "employee" to read:

““Employee” includes any individual employed by an employer, but shall not include any individual employed:

- (1) At a guaranteed compensation totaling \$2,000 or more a month, whether paid weekly, biweekly, or monthly;
- (2) In agriculture for any workweek in which the employer of the individual employs less than twenty employees or in agriculture for any workweek in which the individual is engaged in coffee harvesting;
- (3) In ~~[domestic service in]~~ or about the home of the individual's employer ~~[or as a house parent in or about any home or shelter maintained for child welfare purposes by a charitable organization exempt from income tax under section 501 of the federal Internal Revenue Code];~~
 - (A) In domestic service on a casual basis; or
 - (B) Providing companionship services for the aged or infirm;
- (4) As a house parent in or about any home or shelter maintained for child welfare purposes by a charitable organization exempt from income tax under section 501 of the federal Internal Revenue Code;
- (5) By the individual's brother, sister, brother-in-law, sister-in-law, son, daughter, spouse, parent, or parent-in-law;
- (6) In a bona fide executive, administrative, supervisory, or professional capacity or in the capacity of outside salesperson or as an outside collector;
- (7) In the propagating, catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacean, sponge, seaweed, or other aquatic forms of animal or vegetable life, including the going to and returning from work and the loading and unloading of such products prior to first processing;
- (8) On a ship or vessel and who has a Merchant Mariners Document issued by the United States Coast Guard;
- (9) As a driver of a vehicle carrying passengers for hire operated solely on call from a fixed stand;
- (10) As a golf caddy;
- (11) By a nonprofit school during the time such individual is a student attending such school;
- (12) In any capacity if by reason of the employee's employment in such capacity and during the term thereof the minimum wage which may be paid the employee or maximum hours which the employee may work during any workweek without the payment of overtime, are prescribed by the federal Fair Labor Standards Act of 1938, as amended, or as the same may be further amended from time to time; provided that if the minimum wage which may be paid the employee under the Fair Labor Standards Act for any workweek is less than the minimum wage prescribed by section 387-2, then section 387-2 shall apply in respect to the employees for such workweek; provided further that if the maximum workweek established for the employee under the Fair Labor Standards Act for the purposes of overtime compensation is higher than the maximum workweek established under section 387-3, then section 387-3 shall apply in respect to such employee for such workweek; except that the employee's regular rate in such an event shall be the employee's regular rate as determined under the Fair Labor Standards Act;
- (13) As a seasonal youth camp staff member in a resident situation in a youth camp sponsored by charitable, religious, or nonprofit organizations exempt from income tax under section 501 of the fed-

- eral Internal Revenue Code or in a youth camp accredited by the American Camping Association; or
- (14) As an automobile salesperson primarily engaged in the selling of automobiles or trucks if employed by an automobile or truck dealer licensed under chapter 437.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 1, 2013.)

ACT 249

S.B. NO. 532

A Bill for an Act Relating to Breastfeeding in the Workplace.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that breastfeeding provides important health benefits to both mother and child. However, only one in five children in Hawaii receive the minimum six months of exclusive breastfeeding recommended by the American Academy of Pediatrics and the World Health Organization to reduce risk of obesity, diabetes, infectious disease, asthma, allergies, and certain childhood cancers. The legislature also finds that mother-child separation due to work presents a serious challenge to breastfeeding when workplaces do not accommodate the needs of breastfeeding employees. According to the Hawaii Pregnancy Risk Assessment Monitoring System, one in five women stop breastfeeding because they need to return to work or school. Without break time or a private location to express milk, mothers may find their milk supply dwindling and give up breastfeeding.

The purpose of this Act is to require employers to provide a reasonable break time and location shielded from view and intrusion by coworkers and the public for breastfeeding employees to express milk in order to maintain milk supply and continue breastfeeding.

SECTION 2. Chapter 378, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . OPPORTUNITY TO EXPRESS MILK

§378- Definitions. As used in this part:

“Employee” means an individual who performs a service for wages or other remuneration under a contract for hire, written or oral, or expressed or implied. “Employee” includes an individual employed by the State or a political subdivision of the State.

“Employer” means a person who has one or more employees. “Employer” includes an agent of an employer or of the State or a political subdivision thereof, but does not include the United States.

§378- Opportunity to express milk. (a) An employer shall provide:

- (1) Reasonable break time for an employee to express milk for the employee’s nursing child for one year after the child’s birth each time the employee has a need to express breast milk; and

- (2) A location, other than the restroom, that is shielded from view and free from intrusion from coworkers and the public that may be used by an employee to express breast milk.
- (b) Every employer covered by this section shall post a notice in a conspicuous place accessible to employees and use other appropriate means to keep the employer's employees informed of the protections and obligations under this part.
- (c) Subsection (a) shall not apply to any employer who has fewer than twenty employees if the employer can show that the requirements under subsection (a) would impose an undue hardship by causing the employer significant difficulty or expense in relation to the size, financial resources, nature, or structure of the employer's business.

§378- Civil actions for injunctive relief or damages. (a) An employee who alleges a violation of this part may bring a civil action for appropriate injunctive relief, actual damages, or both within two years after the occurrence of the alleged violation.

(b) A cause of action pursuant to subsection (a) may be brought in the appropriate court in the circuit where the alleged violation occurred, where the plaintiff resides, or where the defendant resides or has a principal place of business.

(c) A defendant who violates this part shall be fined \$500 for each violation. A civil fine that is ordered pursuant to this section shall be deposited with the director of finance to the credit of the state general fund.

(d) For purposes of this section, "damages" means damages for injury or loss caused by each violation of this part, including reasonable attorney's fees."

SECTION 3. Section 378-10, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed and stricken.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved July 1, 2013.)

Note

- 1. Edited pursuant to HRS §23G-16.5.

ACT 250

S.B. NO. 655

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that many patients who have been diagnosed with sexually transmitted diseases, including chlamydia and gonorrhea, have sexual partners who refuse to seek treatment. To prevent reinfection, adequate treatment of sexually transmitted diseases should include treatment of sexual partners. Expedited partner therapy is a partner treatment approach where partners of patients who test positive for certain sexually transmitted diseases are provided medication without previous medical evaluation.

The legislature further finds that because of expedited partner therapy's effectiveness in reducing reinfection rates, the Centers for Disease Control and Prevention has recommended its use since 2006 among heterosexual partners of patients diagnosed with chlamydia or gonorrhea when it is unlikely the partners will seek timely evaluation and treatment. The legislature additionally finds that Hawaii has high reported rates of chlamydia. The most recent Centers for Disease Control and Prevention data ranks Hawaii twenty-second in the nation for reported chlamydia infection rates, with the disease peaking in the age group between fifteen and twenty-four years.

The legislature also finds that primary care providers, including persons licensed under chapter 453, Hawaii Revised Statutes, and advanced practice registered nurses with prescriptive authority under chapter 457, Hawaii Revised Statutes, currently diagnose and treat persons with sexually transmitted diseases. Expedited partner therapy will permit these health professionals to adequately treat sexually transmitted diseases and prevent reinfection through the treatment of sexual partners.

The purpose of this Act is to allow health professionals to provide expedited partner therapy, in accordance with Centers for Disease Control and Prevention guidelines and recommendations, to the partners of a patient who has been diagnosed as having a sexually transmitted disease.

SECTION 2. Chapter 453, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . EXPEDITED PARTNER THERAPY

§453-A Definitions. As used in this part:

"Expedited partner therapy" means the indirect treatment of partners of a patient who has been diagnosed as having a sexually transmitted disease through the dispensing or prescribing of antibiotic therapy for the treatment of the partners to the patient without the physical examination of the partners by a health professional.

"Health professional" means any of the following:

- (1) A person licensed or otherwise authorized by law to practice medicine or surgery under this chapter and whose scope of practice includes the diagnosis and treatment of sexually transmitted diseases;
- (2) An advanced practice registered nurse with prescriptive authority under chapter 457 and duly licensed in the State; or
- (3) For the purpose of dispensing antibiotic therapy under this section, a pharmacist who is licensed or otherwise authorized to engage in the practice of pharmacy under chapter 461.

"Sexual activity" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.

"Sexually transmitted disease" means chlamydia, gonorrhea, or other sexually transmitted diseases that are or may be recommended by the Centers for Disease Control and Prevention for expedited partner therapy.

§453-B Expedited partner therapy. (a) A health professional may, in addition to treating a patient, provide expedited partner therapy to the partners of the patient if all of the following requirements are met:

- (1) The patient has a laboratory-confirmed or suspected clinical diagnosis of a sexually transmitted disease;

- (2) The patient indicates that the patient has partners with whom the patient has engaged in sexual activity within the sixty-day period immediately preceding the diagnosis of a sexually transmitted disease; and
 - (3) The patient indicates that the patient's partners are unable or unlikely to seek clinical services in a timely manner.
- (b) A health professional who provides expedited partner therapy as authorized in this section shall do all of the following:
- (1) Dispense or prescribe antibiotic therapy in the name of the partners, if known, without the physical examination of the partners by the health professional. Notwithstanding any law to the contrary, if the name of the partners are not known, the health professional shall dispense or prescribe the antibiotic therapy in the name of "Expedited Partner Therapy";
 - (2) Convey to the patient that it is important to notify the patient's partners of the patient's diagnosis and that it is important for the partners to obtain medical care for a complete evaluation, testing for sexually transmitted diseases, counseling, and treatment;
 - (3) Distribute to the patient the information sheet developed pursuant to section 453-C; and
 - (4) Follow all Centers for Disease Control and Prevention guidelines related to the practices and recommendations for expedited partner therapy.

§453-C Information sheet. The department of health shall develop and, upon request, distribute to health professionals subject to this part an information sheet that includes all of the following:

- (1) A description of expedited partner therapy and its purpose;
- (2) A notice that an individual who has been treated for a sexually transmitted disease should be retested after treatment to detect possible persistent or recurrent infection, including information on the timing of retesting, as recommended by the Centers for Disease Control and Prevention;
- (3) A warning about the possible dangers of administering antibiotic therapy to a pregnant individual;
- (4) Information about antibiotics dispensed or prescribed and dosages of those antibiotics dispensed or prescribed, as recommended by the Centers for Disease Control and Prevention;
- (5) A warning about the risk of allergies to and drug interactions with the antibiotics described in paragraph (4);
- (6) Information about sexually transmitted diseases, the treatment of sexually transmitted diseases, and the prevention of sexually transmitted diseases;
- (7) A notice that the patient and the patient's partners should abstain from sexual activity for seven days after the patient and the partners have completed the antibiotic therapy;
- (8) A notice that the partners should be tested for sexually transmitted diseases;
- (9) A notice of the risk to the patient, the partners, and others, including the public health, if a sexually transmitted disease is not completely treated;
- (10) A notice of the responsibility of the patient to notify sexual partners of the risk of sexually transmitted diseases and the importance of examination and treatment for sexually transmitted diseases; and

- (11) A statement advising any individual who has any questions regarding anything in the information sheet to contact a health professional or the department of health.

§453-D Limitation of liability. A health professional who provides expedited partner therapy as authorized under section 453-B, a person licensed or otherwise authorized by law to practice medicine or surgery under this chapter, an advanced practice registered nurse with prescriptive authority under chapter 457, or a pharmacist who is licensed or otherwise authorized to engage in the practice of pharmacy under chapter 461, who reasonably and in good faith renders the expedited partner therapy in accordance with this section and the rules and regulations adopted by the director of commerce and consumer affairs, shall not be subject to civil or criminal liability or be deemed to have engaged in unprofessional conduct for rendering that therapy.”

SECTION 3. Chapter 457, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§457- Advanced practice registered nurses; expedited partner therapy. Advanced practice registered nurses who meet the definition of a health professional as defined in section 453-A, shall be authorized to provide expedited partner therapy in accordance with part of chapter 453.”

SECTION 4. Section 328-16, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a), (b), and (c) to read:
 - “**(a)** A prescription drug shall be dispensed only if its label bears the following:
 - (1) The name, business address, and telephone number of the seller. The business address shall be the physical location of the pharmacy or the dispensing practitioner’s office;
 - (2) [The] Except as otherwise authorized for expedited partner therapy in section 453-B, the name of the person for whom the drug was prescribed or the name of the owner of the animal for which the drug was prescribed;
 - (3) The serial number of the prescription;
 - (4) The date the prescription was prepared;
 - (5) The name of the practitioner if the seller is not the practitioner;
 - (6) The name, strength, and quantity of the drug;
 - (7) The “use by” date for the drug, which shall be:
 - (A) The expiration date on the manufacturer’s container; or
 - (B) One year from the date the drug is dispensed, whichever is earlier;
 - (8) The number of refills available, if any;
 - (9) In the case of the dispensing of an equivalent generic drug product, the statement “same as (brand name of the drug product prescribed or the referenced listed drug name)”, or words of similar meaning; and
 - (10) Specific directions for the drug’s use; provided that if the specific directions for use are too lengthy for inclusion on the label, the notation “take according to written instructions” may be used if separate written instructions for use are actually issued with the drug by the practitioner or the pharmacist, but in no event shall the nota-

tion "take as directed", referring to oral instructions, be considered acceptable.

If any prescription for a drug does not indicate the number of times it may be re-filled, if any, the pharmacist shall not refill that prescription unless subsequently authorized to do so by the practitioner. The act of dispensing a prescription drug other than a professional sample or medical oxygen contrary to this subsection shall be deemed to be an act that results in a drug being misbranded while held for sale.

(b) In addition to the requirements enumerated in subsection (a), a prescription drug shall be dispensed only:

- (1) By a pharmacist pursuant to a valid prescription [øf], section 461-1[;], or section 453-B;
- (2) By a medical oxygen distributor pursuant to a prescription or certificate of medical necessity; provided that the drug to be dispensed is medical oxygen; or
- (3) By a practitioner to an ultimate user; provided that:

(A) [The] Except as otherwise authorized for expedited partner therapy in section 453-B, the practitioner shall inform the patient, prior to dispensing any drug other than a professional sample, that the patient may have a written, orally ordered, or electronically transmitted or conveyed prescription directed to a pharmacy or a medical oxygen distributor of the patient's own choice;

(B) The practitioner shall promptly record in the practitioner's records:

- (i) The prescription in full;
- (ii) The name, strength, and quantity of the drug, and specific directions for the drug's use;
- (iii) The date the drug was dispensed; [and]
- (iv) [The] Except as otherwise authorized for expedited partner therapy in section 453-B, the name and address of the person for whom the drug was prescribed or the name of the owner of the animal for which the drug was prescribed; and
- (v) Prescription drugs dispensed or prescribed for expedited partner therapy as authorized under section 453-B;

(C) The records described in subparagraph (B) shall be subject to the inspection of the department or its agents at all times; and

(D) No undisclosed rebate, refund, commission, preference, discount, or other consideration, whether in the form of money or otherwise, has been offered to the practitioner as compensation or inducement to dispense or prescribe any specific drug in preference to other drugs that might be used for the identical therapeutic indication.

(c) A prescription may be communicated in writing, orally, or by electronic transmission, and shall include the following information:

- (1) The authorization of the practitioner noted as follows:
 - (A) Written prescriptions shall include the original signature of the practitioner;
 - (B) Oral prescriptions shall be promptly recorded by the pharmacist or medical oxygen distributor and shall include the practitioner's oral code designation; and

- (C) Electronic prescriptions shall be irrefutably traceable to the prescribing practitioner by a recognizable and unique practitioner identifier such as:
 - (i) A bitmap or graphic image of the prescriber's handwritten signature and the prescriber's oral code designation (or license number or other identifier if the prescriber is an out-of-state practitioner);
 - (ii) An electronic signature;
 - (iii) A digital signature; or
 - (iv) By other means as approved by the director;
- (2) The date of issuance;
- (3) The practitioner's name, business telephone number, and business address, unless the practitioner is otherwise uniquely identified and the pharmacy or medical oxygen distributor dispensing the prescription has the prescriber's contact information on file accessible within the dispensing area;
- (4) The name, strength, and quantity of the drug to be dispensed, and specific directions for the drug's use;
- (5) [The] Except as otherwise authorized for expedited partner therapy in section 453-B, the name and address of the person for whom the prescription was written or the name of the owner of the animal for which the drug was prescribed, unless the pharmacy or medical oxygen distributor dispensing the prescription has the address on file accessible within the dispensing area;
- (6) The room number and route of administration, if the patient is in an institutional facility; and
- (7) The number of allowable refills, if the prescription is refillable. If the number of refills authorized by the practitioner is indicated using the terms "as needed" or "prn", the prescription may be refilled up to twelve months from the date the original prescription was written. After the twelve-month period, the "as needed" or "prn" prescription may be refilled for a subsequent three-month period; provided:
 - (A) The prescription is refilled only once during the three-month period;
 - (B) The refill does not exceed a thirty-day supply of the drug;
 - (C) The refill does not provide any amount of the drug fifteen months beyond the date the original prescription was written;
 - (D) In the case of medical oxygen, the duration of therapy indicated on a certificate of medical necessity shall supersede any limitations or restrictions on refilling; and
 - (E) Subparagraphs (A) to (D) shall apply only to pharmacies and medical oxygen distributors practicing in the State."
- 2. By amending subsection (g) to read:

"(g) Any drug other than medical oxygen dispensed pursuant to a prescription shall be exempt from the requirements of section 328-15 (except paragraphs (1), (9), (11), and (12), and the packaging requirements of paragraphs (7) and (8)), if the drug bears a label containing:

 - (1) The name and address of the pharmacy;
 - (2) The serial number and the date of the prescription or of its filling;
 - (3) The name of the practitioner;
 - (4) [The] Except as otherwise authorized for expedited partner therapy in section 453-B, the name of the patient;
 - (5) The directions for use; and

(6) Any cautionary statements contained in the prescription. This exemption shall not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of subsection (a), (b), (c), or (d)."

SECTION 5. Section 328-17.6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (c) and (d) to read:

"(c) Any pharmacist or medical oxygen distributor who fills or refills a prescription from an out-of-state practitioner shall:

- (1) Note the following on the prescription record: the out-of-state practitioner's full name, address, and telephone number;
- (2) Be responsible for validating and verifying the practitioner's prescriptive authority by virtue of a valid out-of-state license, a Drug Enforcement Administration registration number, or other measures as appropriate; and
- (3) ~~[Demand]~~ Except as otherwise authorized for expedited partner therapy in section 453-B, demand proper identification from the person whose name appears on the prescription prior to filling the prescription, in addition to complying with any identification procedures established by the department for filling and refilling an out-of-state prescription.

(d) Before refilling a transferred out-of-state prescription, a pharmacist or medical oxygen distributor shall:

- (1) ~~[Advise]~~ Except as otherwise authorized for expedited partner therapy in section 453-B, advise the person whose name appears on the prescription that the prescription on file at the originating out-of-state pharmacy or medical oxygen distributor may be canceled; and
- (2) Record all information required to be on a prescription, including:
 - (A) The date of issuance of the original prescription;
 - (B) The number of refills authorized on the original prescription;
 - (C) The date the original prescription was dispensed;
 - (D) The number of valid refills remaining and the date of the last refill;
 - (E) The out-of-state pharmacy's or out-of-state medical oxygen distributor's name, telephone number, and address, and the original prescription number or control number from which the prescription information was transferred; and
 - (F) The name of the transferor pharmacist or the medical oxygen distributor's agent."

2. By amending subsection (f) to read:

"(f) An out-of-state prescription record shall state the date of filling or refilling and, except as otherwise authorized for expedited partner therapy in section 453-B, the local address of the person whose name appears on the prescription."

SECTION 6. Section 328-17.7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every practitioner, pharmacist, or medical oxygen distributor who compounds, sells, or delivers any prescribed drug to a patient or a patient's agent shall maintain records that identify:

- (1) The specific drug product dispensed, including:
 - (A) The product's national drug code (NDC) number; or

- (B) The brand name or the established name and the name or commonly accepted abbreviation of the principal labeler of the drug product dispensed, the product strength, and the dosage form;
- (2) The quantity of the drug;
- (3) Directions for use;
- (4) The number of allowable refills;
- (5) The date of initial dispensing and the dates of all refilling;
- (6) The date of any transfer of the prescription;
- (7) The name, business address, and telephone number of the recipient pharmacist or medical oxygen distributor for any transfer of prescription;
- (8) The prescribing practitioner, including name, business address, and telephone number;
- (9) The format (oral, written, or electronic) in which the prescription was received;
- (10) [The] Except as otherwise authorized for expedited partner therapy in section 453-B, the patient, including name, address, and telephone number;
- (11) The date of prescribing; and
- (12) The name of the practitioner, pharmacist, or medical oxygen distributor dispensing the drug.

Every prescription dispensed shall have the name of the pharmacist, dispensing practitioner, or medical oxygen distributor responsible for the dispensing appended to the prescription record, and every prescription record shall be preserved and legible for a period of not less than five years. The prescription records shall be subject at all times to the inspection of the director of health or the director's agent."

SECTION 7. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 9. This Act shall take effect upon its approval.

(Approved July 1, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 251

H.B. NO. 587

A Bill for an Act Relating to the Penal Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 709-906, Hawaii Revised Statutes, is amended as follows:

- 1. By amending subsection (1) to read:

“(1) It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member or to refuse compliance with the lawful order of a police officer under subsection (4). The police, in investigating any complaint of abuse of a family or household member, upon request, may transport the abused person to a hospital or safe shelter.

For the purposes of this section, “family or household member” means spouses or reciprocal beneficiaries, former spouses or reciprocal beneficiaries, persons in a dating relationship as defined under section 586-1, persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit.”

2. By amending subsection (4) to read:

“(4) Any police officer, with or without a warrant, may take the following course of action where the officer has reasonable grounds to believe that there was physical abuse or harm inflicted by one person upon a family or household member, regardless of whether the physical abuse or harm occurred in the officer’s presence:

- (a) The police officer may make reasonable inquiry of the family or household member upon whom the officer believes physical abuse or harm has been inflicted and other witnesses as there may be;
- (b) Where the police officer has reasonable grounds to believe that there is probable danger of further physical abuse or harm being inflicted by one person upon a family or household member, the police officer lawfully shall order the person to leave the premises for a period of separation of ~~[twenty-four]~~ forty-eight hours, during which time the person shall not initiate any contact, either by telephone or in person, with the family or household member; provided that the person is allowed to enter the premises with police escort to collect any necessary personal effects;
- (c) Where the police officer makes the finding referred to in paragraph (b) and the incident occurs after 12:00 p.m. on any Friday, or on any Saturday, Sunday, or legal holiday, the order to leave the premises and to initiate no further contact shall commence immediately and be in full force, but the ~~[twenty-four]~~ forty-eight hour period shall be enlarged and extended until 4:30 p.m. on the first day following the weekend or legal holiday;
- (d) All persons who are ordered to leave as stated above shall be given a written warning citation stating the date, time, and location of the warning and stating the penalties for violating the warning. A copy of the warning citation shall be retained by the police officer and attached to a written report which shall be submitted in all cases. A third copy of the warning citation shall be given to the abused person;
- (e) If the person so ordered refuses to comply with the order to leave the premises or returns to the premises before the expiration of the period of separation, or if the person so ordered initiates any contact with the abused person, the person shall be placed under arrest for the purpose of preventing further physical abuse or harm to the family or household member; and
- (f) The police officer shall seize all firearms and ammunition that the police officer has reasonable grounds to believe were used or threatened to be used in the commission of an offense under this section.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 1, 2013.)

ACT 252

S.B. NO. 1340

A Bill for an Act Relating to Foster Care.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) allows states to claim federal reimbursement for the costs of caring for and supervising Title IV-E eligible foster youth until their twenty-first birthday.

Compared to their peers, young people who have been in the foster care system are more likely to become homeless and unemployed when they age out of foster care. They are less likely to graduate from high school or attend post-secondary education. They are more likely to have physical, developmental, and mental health challenges. Unlike their peers, most foster care youths lose their support system when they reach the age of eighteen years and are discharged from state custody.

Evidence from several studies shows young people who continue to receive foster care services until age twenty-one have better outcomes when they leave foster care compared to those who left at age eighteen. These studies have shown an increase in positive outcomes in educational achievement and employment, contributing to a more stable workforce and increased lifetime earnings. Studies also show a decrease in negative outcomes, including homelessness, dependency on public assistance, drug dependency, and criminal activities.

The legislature finds that this is not surprising, considering that research shows the brain is not fully developed until the early to mid-twenties, suggesting that instead of immediate transition from adolescence to adulthood, a young person experiences gradual development during a longer phase called emerging adulthood. Transitioning youth need extra support as they accomplish developmental milestones and progress toward full-fledged adulthood.

The legislature further finds that extending independent living services, case and permanency planning, placement, and judicial oversight to age twenty-one benefits young people who urgently need continued support and services. Extended care can provide safe and stable housing for young people who have not achieved permanence by age eighteen and are not ready to be on their own.

Moreover, extended care provides young people with access to additional child welfare resources that can be used to help a young person continue to build a network of support and permanent relationships. To ensure young adults never leave care without a permanently committed, caring adult in their life, it is vital that permanency planning continue, with the young adult leading the effort. This ongoing permanency planning for non-minor dependents over the age of eighteen should also provide young people with access to competent legal advocates and meaningful court reviews.

Accordingly, the purpose of this Act is to add a new part to chapter 346, Hawaii Revised Statutes, to establish the young adult voluntary foster care program to care for and supervise eligible foster youth until their twenty-first birthday.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . YOUNG ADULT VOLUNTARY FOSTER CARE PROGRAM

§346-A Purpose. The purpose of this part is to establish the young adult voluntary foster care program, to care for and assist eligible foster youth until their twenty-first birthday. The young adult voluntary foster care program will support former foster youth in the transition to adulthood and in becoming independent and self-sufficient.

§346-B Definitions. As used in this part, unless the context clearly indicates otherwise:

"Case plan" means a plan developed by the department, in consultation with the young adult, as developmentally appropriate, containing a written description of the programs and services that will help the young adult transition from foster care to independent living.

"Court" means one of the family courts established pursuant to chapter 571.

"Department" means the department of human services and its authorized representatives.

"Foster custody" means the legal status created when the department places a child outside of the family home with the agreement of the legal custodian or pursuant to court order as set forth in chapter 587A.

"Party" means the department or the young adult who is subject to a proceeding brought under this part and may include any other person whose participation the court finds is in the best interest of the young adult.

"Permanent custody" means the legal status created by order of the court after the termination of parental rights as set forth in chapter 587A.

"Young adult" means a person who has attained the age of eighteen or older, but is less than twenty-one years of age.

§346-C Rights of the young adult. (a) Young adults have a right to meaningful court reviews, including the right to:

- (1) Receive notice of any court hearings and reviews and any other case related proceedings and meetings;
- (2) Be involved in the development of a personalized case plan;
- (3) Be present at all court hearings and reviews and be able to address the court during those hearings; provided that young adults may waive their right to be present at the court hearings and reviews or may request to participate in the court hearings and reviews by phone; and
- (4) Request competent legal counsel.

(b) Nothing in this part shall be construed to abrogate any other rights that a person who has attained eighteen years of age, may have as an adult under state law.

§346-D Jurisdiction. The family courts established pursuant to chapter 571 shall have exclusive jurisdiction over proceedings brought under this part.

§346-E Eligibility. A young adult may continue to receive services under this part if the young adult meets the following criteria:

- (1) The young adult was:
 - (A) Under the permanent or foster custody of the department at the time the young adult attained the age of eighteen;
 - (B) A child who was placed in guardianship after attaining the age of sixteen; or
 - (C) A child who was adopted after attaining the age of sixteen;
- (2) The young adult voluntarily consents to participate in the young adult voluntary foster care program;
- (3) The court finds that exercising jurisdiction under this part is in the young adult's best interest; and
- (4) The young adult is:
 - (A) Completing secondary education or a program leading to an equivalent credential;
 - (B) Enrolled in an institution that provides post-secondary or vocational education;
 - (C) Participating in a program or activity designed to promote or remove barriers to employment;
 - (D) Employed for at least eighty hours per month; or
 - (E) Incapable of doing any of the activities described in subparagraphs (A) to (D) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the young adult.

§346-F Voluntary care agreement. If a young adult is no longer under jurisdiction pursuant to chapter 587A but chooses to participate in the young adult voluntary foster care program and meets the eligibility criteria set forth in section 346-E, the department and the young adult shall enter into a voluntary care agreement that shall include, at a minimum, the following:

- (1) The obligation for the young adult to continue to meet the conditions for eligibility described in section 346-E for the duration of the voluntary care agreement;
- (2) The young adult's right to terminate the voluntary care agreement at any time; and
- (3) The voluntary nature of the young adult's participation in the young adult voluntary foster care program.

§346-G Provision of extended foster care services. As soon as the department determines that a young adult is eligible under section 346-E and the young adult signs the voluntary care agreement as described in section 346-F, prior to the filing of the petition invoking the jurisdiction of the court or the court's determination of jurisdiction pursuant to section 346-H, the department may provide extended foster care services to the young adult.

§346-H Petition; venue. (a) Within thirty days after the voluntary care agreement is signed, the department shall file with the court in the county where the young adult resides a petition invoking the jurisdiction of the court under this part, which shall contain:

- (1) The young adult's name, date of birth, and current address;
- (2) A statement of facts that supports the eligibility of the young adult for foster care services that includes the following:
 - (A) The reasonable efforts made to achieve permanency for the young adult; and

(B) The reasons why it is in the best interest of the young adult to extend foster care services; and

(3) A copy of the signed voluntary care agreement.

(b) Upon the filing of the petition, the court shall open a young adult voluntary foster care case for the purpose of determining whether extending foster care services is in the young adult's best interests. The court shall conduct a hearing and make its determination no later than fifteen days after the filing of the petition.

(c) The court shall set a periodic review to be held within one hundred eighty days after the signing of the voluntary care agreement.

§346-I Notice of hearings and reviews. Notice of hearings and reviews shall be provided to the parties; provided that no further notice is required for any party who was given actual notice of a hearing or review while present in court. Notice of hearings or reviews shall be served no less than forty-eight hours before the scheduled hearing, or as otherwise determined by the court.

§346-J Case plan; reports to be submitted by the department. (a) A case plan shall:

(1) Establish goals for the young adult, including those pertaining to education; health; therapy; counseling; a relationship with the young adult's birth family, including visits; cultural connections; independent living; and transition plans;

(2) Describe services needed to assist the young adult to achieve the goals set forth in paragraph (1); and

(3) Describe the methods for achieving the goals and services set forth in paragraphs (1) and (2).

(b) The department shall prepare a report to the court, developed in collaboration with the young adult as developmentally appropriate, describing:

(1) The young adult's progress toward achieving the goals of the case plan;

(2) Proposed revisions to the goals of the case plan and reasons for the revisions; and

(3) Proposed revisions to the methods for achieving the goals of the case plan and the reasons for the revisions.

(c) The report shall be submitted to the court seven days prior to a scheduled periodic review hearing date and a copy shall be provided to the young adult.

§346-K Court proceedings. (a) The court shall conduct all proceedings under this part without a jury.

(b) The general public shall be excluded from these proceedings. Only parties found by the court to have a direct interest in the case shall be admitted to the proceeding.

(c) Except with respect to the department or the young adult, the court may limit a party's right to participate in any proceeding if the court deems the limitation to be consistent with the best interests of the young adult.

(d) All documents, reports, and records under this part shall be confidential and shall not be released to any third party without the consent of the young adult or the consent of the court for good cause shown.

§346-L Court-appointed attorneys. The court may appoint an attorney sua sponte or at the request of any party to represent a young adult who is eligible under section 346-E and has signed the voluntary care agreement as de-

scribed in section 346-G if it is deemed by the court to be in the young adult's best interest. Attorneys who are appointed by the court to represent a qualifying young adult may be paid by the court, unless the young adult for whom counsel is appointed has an independent estate sufficient to pay fees and costs.

§346-M Periodic review. (a) Periodic judicial reviews shall occur not less than once every one hundred eighty days after the signing of the voluntary care agreement and may be conducted either by court hearing or court review.

- (b) At the periodic review, the court shall issue the following findings:
 - (1) Whether the young adult continues to meet the eligibility requirements set forth in section 346-E;
 - (2) Whether the young adult continues to comply with the case plan developed in collaboration between the department and the young adult, and the appropriateness of the case plan; and
 - (3) The young adult's progress toward achieving independence.

§346-N Termination of jurisdiction. Jurisdiction under this part shall terminate when:

- (1) The young adult has reached the age of twenty-one years;
- (2) The young adult chooses to terminate the voluntary care agreement and stop receiving extended foster care services if the young adult:
 - (A) Has voluntarily signed a document attesting to the fact that the young adult no longer consents to the court's jurisdiction;
 - (B) Has been informed in writing of the effects of terminating voluntary foster care early; and
 - (C) Has been informed in writing of the option to reestablish jurisdiction before reaching age twenty-one and the procedures to do so; or
- (3) After a court finds that:
 - (A) The young adult no longer meets the eligibility requirements as set forth in section 346-E; or
 - (B) Despite the fact that the department has made ongoing reasonable efforts to provide the young adult with services, the young adult is in material noncompliance with the case plan.

§346-O Reestablishing jurisdiction. A young adult who was previously under the jurisdiction of the court under this part and who was terminated from the young adult voluntary foster care program may reestablish jurisdiction by signing a new voluntary foster care agreement at which time the department and the court shall proceed pursuant to section 346-H.

§346-P Liability of the department. The department or any of its employees who provide services under this part shall not be liable to a third person:

- (1) For any acts of the young adult; and
- (2) For injury to the young adult resulting from the negligence or act of a third person providing services or housing to the young adult.

§346-Q Reporting requirement. The department shall submit an annual report to the legislature, no later than twenty days prior to the convening of each regular session, on the status, efficacy, and any other relevant information regarding the young adult voluntary foster care program established by this part."

SECTION 3. In codifying the new sections added to chapter 346, Hawaii Revised Statutes, by section 2 of this Act, the revisor of statutes shall substitute

appropriate section numbers for the letters used in the designations of, and references to, those new sections in this Act.

SECTION 4. This Act shall take effect on July 1, 2014.

(Approved July 1, 2013.)

ACT 253

S.B. NO. 529

A Bill for an Act Relating to Parental Rights.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that state law does not prevent a natural parent from claiming parental rights and obtaining custody or visitation of a child conceived as a result of sexual assault or rape. The perpetrator-parent is afforded the same rights as any other parent despite the sexual assault against the victim-parent, because Hawaii does not have a law restricting or terminating those rights. Consequently, a perpetrator-parent may assert parental rights, including custody and visitation, forcing a victim-parent to confront the perpetrator-parent on a recurring basis while raising a child conceived from a sexual assault.

The legislature finds that approximately twenty-five thousand women become pregnant as a result of rape each year in the United States. According to a 2003 report by the National Violence Against Women Prevention Research Center, one out of every seven adult women in Hawaii, or about fifteen per cent, has been a victim of sexual assault. This number is higher than the national average. A 2004 report by the department of the attorney general crime prevention and justice assistance division and the Sex Abuse Treatment Center in Honolulu detailed that Hawaiian or part-Hawaiian women make up the largest category of sexual assault victims. The legislature further finds that, generally, eight out of ten rapes are committed by a person that the victim knows, so the consequences can be extreme for a victim-parent raising a child from rape with no legal protections.

The purpose of this Act is to prohibit the family courts from granting custody and visitation of a minor child who was conceived as a result of rape or sexual assault to a natural parent who has been convicted of that offense and to authorize the family court to terminate the parental rights to a minor child who was conceived as a result of rape or sexual assault of a natural parent who has been convicted of that offense.

SECTION 2. Section 571-46, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In actions for divorce, separation, annulment, separate maintenance, or any other proceeding where there is at issue a dispute as to the custody of a minor child, the court, during the pendency of the action, at the final hearing, or any time during the minority of the child, may make an order for the custody of the minor child as may seem necessary or proper. In awarding the custody, the court shall be guided by the following standards, considerations, and procedures:

- (1) Custody should be awarded to either parent or to both parents according to the best interests of the child, and the court also may consider frequent, continuing, and meaningful contact of each par-

ent with the child unless the court finds that a parent is unable to act in the best interest of the child;

- (2) Custody may be awarded to persons other than the father or mother whenever the award serves the best interest of the child. Any person who has had de facto custody of the child in a stable and wholesome home and is a fit and proper person shall be entitled prima facie to an award of custody;
- (3) If a child is of sufficient age and capacity to reason, so as to form an intelligent preference, the child's wishes as to custody shall be considered and be given due weight by the court;
- (4) Whenever good cause appears therefor, the court may require an investigation and report concerning the care, welfare, and custody of any minor child of the parties. When so directed by the court, investigators or professional personnel attached to or assisting the court, hereinafter referred to as child custody evaluators, shall make investigations and reports that shall be made available to all interested parties and counsel before hearing, and the reports may be received in evidence if no objection is made and, if objection is made, may be received in evidence; provided the person or persons responsible for the report are available for cross-examination as to any matter that has been investigated; and provided further that the court shall define the requirements to be a court-appointed child custody evaluator, the standards of practice, ethics, policies, and procedures required of court-appointed child custody evaluators in the performance of their duties for all courts, and the powers of the courts over child custody evaluators to effectuate the best interests of a child in a contested custody dispute pursuant to this section. Where there is no child custody evaluator available that meets the requirements and standards, or any child custody evaluator to serve indigent parties, the court may appoint a person otherwise willing and available;
- (5) The court may hear the testimony of any person or expert, produced by any party or upon the court's own motion, whose skill, insight, knowledge, or experience is such that the person's or expert's testimony is relevant to a just and reasonable determination of what is for the best physical, mental, moral, and spiritual well-being of the child whose custody is at issue;
- (6) Any custody award shall be subject to modification or change whenever the best interests of the child require or justify the modification or change and, wherever practicable, the same person who made the original order shall hear the motion or petition for modification of the prior award;
- (7) Reasonable visitation rights shall be awarded to parents, grandparents, siblings, and any person interested in the welfare of the child in the discretion of the court, unless it is shown that rights of visitation are detrimental to the best interests of the child;
- (8) The court may appoint a guardian ad litem to represent the interests of the child and may assess the reasonable fees and expenses of the guardian ad litem as costs of the action, payable in whole or in part by either or both parties as the circumstances may justify;
- (9) In every proceeding where there is at issue a dispute as to the custody of a child, a determination by the court that family violence has been committed by a parent raises a rebuttable presumption that it is detrimental to the child and not in the best interest of the

child to be placed in sole custody, joint legal custody, or joint physical custody with the perpetrator of family violence. In addition to other factors that a court shall consider in a proceeding in which the custody of a child or visitation by a parent is at issue, and in which the court has made a finding of family violence by a parent:

- (A) The court shall consider as the primary factor the safety and well-being of the child and of the parent who is the victim of family violence;
 - (B) The court shall consider the perpetrator's history of causing physical harm, bodily injury, or assault or causing reasonable fear of physical harm, bodily injury, or assault to another person; and
 - (C) If a parent is absent or relocates because of an act of family violence by the other parent, the absence or relocation shall not be a factor that weighs against the parent in determining custody or visitation;
- (10) A court may award visitation to a parent who has committed family violence only if the court finds that adequate provision can be made for the physical safety and psychological well-being of the child and for the safety of the parent who is a victim of family violence;
- (11) In a visitation order, a court may:
- (A) Order an exchange of a child to occur in a protected setting;
 - (B) Order visitation supervised by another person or agency;
 - (C) Order the perpetrator of family violence to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators or other designated counseling as a condition of the visitation;
 - (D) Order the perpetrator of family violence to abstain from possession or consumption of alcohol or controlled substances during the visitation and for twenty-four hours preceding the visitation;
 - (E) Order the perpetrator of family violence to pay a fee to defray the costs of supervised visitation;
 - (F) Prohibit overnight visitation;
 - (G) Require a bond from the perpetrator of family violence for the return and safety of the child. In determining the amount of the bond, the court shall consider the financial circumstances of the perpetrator of family violence;
 - (H) Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of family violence, or other family or household member; and
 - (I) Order the address of the child and the victim to be kept confidential;
- (12) The court may refer but shall not order an adult who is a victim of family violence to attend, either individually or with the perpetrator of the family violence, counseling relating to the victim's status or behavior as a victim as a condition of receiving custody of a child or as a condition of visitation;
- (13) If a court allows a family or household member to supervise visitation, the court shall establish conditions to be followed during visitation;
- (14) A supervised visitation center shall provide a secure setting and specialized procedures for supervised visitation and the transfer of chil-

- dren for visitation and supervision by a person trained in security and the avoidance of family violence; ~~[and]~~
- (15) The court may include in visitation awarded pursuant to this section visitation by electronic communication provided that the court shall additionally consider:
- (A) The potential for abuse or misuse of the electronic communication, including the equipment used for the communication, by the person seeking visitation or by persons who may be present during the visitation or have access to the communication or equipment;
 - (B) Whether the person seeking visitation has previously violated a temporary restraining order or protective order; and
 - (C) Whether adequate provision can be made for the physical safety and psychological well-being of the child and for the safety of the custodial parent[-];
- (16) The court may set conditions for visitation by electronic communication[-] under paragraph (15), including visitation supervised by another person or occurring in a protected setting. Visitation by electronic communication shall not be used to:
- (A) Replace or substitute an award of custody or physical visitation except where:
 - (i) Circumstances exist that make a parent seeking visitation unable to participate in physical visitation, including military deployment; or
 - (ii) Physical visitation may subject the child to physical or extreme psychological harm; or
 - (B) Justify or support the relocation of a custodial parent[-]; and
- (17) Notwithstanding any provision to the contrary, no natural parent shall be granted custody of or visitation with a child if the natural parent has been convicted in a court of competent jurisdiction in any state of rape or sexual assault and the child was conceived as a result of that offense; provided that:
- (A) A denial of custody or visitation under this paragraph shall not affect the obligation of the convicted natural parent to support the child;
 - (B) The court may order the convicted natural parent to pay child support;
 - (C) This paragraph shall not apply if subsequent to the date of conviction, the convicted natural parent and custodial natural parent cohabitate and establish a mutual custodial environment for the child; and
 - (D) A custodial natural parent may petition the court to grant the convicted natural parent custody and visitation denied pursuant to this paragraph, and upon such petition the court may grant custody and visitation to the convicted natural parent where it is in the best interest of the child."

SECTION 3. Section 571-61, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Involuntary termination.

- (1) The family courts may terminate the parental rights in respect to any child as to any legal parent:
 - (A) Who has deserted the child without affording means of identification for a period of at least ninety days;

- (B) Who has voluntarily surrendered the care and custody of the child to another for a period of at least two years;
 - (C) Who, when the child is in the custody of another, has failed to communicate with the child when able to do so for a period of at least one year;
 - (D) Who, when the child is in the custody of another, has failed to provide for care and support of the child when able to do so for a period of at least one year;
 - (E) Whose child has been removed from the parent's physical custody pursuant to legally authorized judicial action under section 571-11(9), and who is found to be unable to provide now and in the foreseeable future the care necessary for the well-being of the child;
 - (F) Who is found by the court to be mentally ill or intellectually disabled and incapacitated from giving consent to the adoption of or from providing now and in the foreseeable future the care necessary for the well-being of the child; or
 - (G) Who is found not to be the child's natural or adoptive father.
- (2) The family courts may terminate the parental rights in respect to any minor of any natural but not legal father who is an adjudicated, presumed or concerned father under chapter 578, or who is named as the father on the child's birth certificate:
- (A) Who falls within subparagraph (A), (B), (C), (D), (E), or (F) of paragraph (1);
 - (B) Whose child is sought to be adopted by the child's stepfather and the stepfather has lived with the child and the child's legal mother for a period of at least one year;
 - (C) Who is only a concerned father who has failed to file a petition for the adoption of the child or whose petition for the adoption of the child has been denied; or
 - (D) Who is found to be an unfit or improper parent or to be financially or otherwise unable to give the child a proper home and education.
- (3) In respect to any proceedings under paragraphs (1) and (2), the authority to terminate parental rights may be exercised by the court only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born and the court has conducted a hearing of the petition. A copy of the petition, together with notice of the time and place of the hearing thereof, shall be personally served at least twenty days prior to the hearing upon the parent whose rights are sought to be terminated. If personal service cannot be effected within the State, service of the notice may be made as provided in section 634-23 or 634-24.
- (4) The family courts may terminate the parental rights in respect to any child as to any natural father who is not the child's legal, adjudicated, presumed or concerned father under chapter 578.
- (5) The family courts may terminate the parental rights in respect to any child of any natural parent upon a finding that the natural parent has been convicted in a court of competent jurisdiction in any state of rape or sexual assault and the child was conceived as a result of the rape or sexual assault perpetrated by the parent whose rights are sought to be terminated; provided that:

- (A) The termination of parental rights shall not affect the obligation of the convicted natural parent to support the child;
- (B) The court may order the convicted natural parent to pay child support;
- (C) This paragraph shall not apply if subsequent to the date of conviction, the convicted natural parent and custodial natural parent cohabitate and establish a mutual custodial environment for the child; and
- (D) The custodial natural parent may petition the court to reinstate the convicted natural parent's parental rights terminated pursuant to this paragraph.

Such authority may be exercised under this chapter only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born, and the court has conducted a hearing of the petition.

If the mother of the child files with the petition an affidavit representing that the identity or whereabouts of the child's father is unknown to her or not ascertainable by her or that other good cause exists why notice cannot or should not be given to the father, the court shall conduct a hearing to determine whether notice is required.

If the court finds that good cause exists why notice cannot or should not be given to the child's father, and that the father is neither the legal nor adjudicated nor presumed father of the child, nor has he demonstrated a reasonable degree of interest, concern, or responsibility as to the existence or welfare of the child, the court may enter an order authorizing the termination of the father's parental rights and the subsequent adoption of the child without notice to the father."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 1, 2013.)

ACT 254

S.B. NO. 69

A Bill for an Act Relating to Firearms.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Under Hawaii's existing laws, a person arriving in the State with a firearm is required to register the firearm, but no permit process or background check is required. Therefore, individuals who might have been prohibited from acquiring a firearm in Hawaii can acquire a firearm outside of this State, where a permit process or extensive background check may not be required, then possess and be considered registered firearm owners after registering with the county police department.

The purpose of this Act is to require persons arriving in the State with firearms to undergo a background check before registering a firearm with the county police department. In addition, this Act extends the time period for persons bringing a firearm into the State to register the firearm, for consistency with the time period for registering firearms obtained in or imported into the State.

SECTION 2. Section 134-3, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) Every person arriving in the State who brings or by any other manner causes to be brought into the State a firearm of any description, whether usable or unusable, serviceable or unserviceable, modern or antique, shall register the firearm within ~~[three]~~ five days after arrival of the person or of the firearm, whichever arrives later, with the chief of police of the county of the person’s place of business or, if there is no place of business, the person’s residence or, if there is neither a place of business nor residence, the person’s place of sojourn. A nonresident alien may bring firearms not otherwise prohibited by law into the State for a continuous period not to exceed ninety days; provided that the person meets the registration requirement of this section and the person possesses:

- (1) A valid Hawaii hunting license procured under chapter 183D, part II, or a commercial or private shooting preserve permit issued pursuant to section 183D-34;
- (2) A written document indicating the person has been invited to the State to shoot on private land; or
- (3) Written notification from a firing range or target shooting business indicating that the person will actually engage in target shooting.

The nonresident alien shall be limited to a nontransferable registration of not more than ten firearms for the purpose of the above activities.

Every person registering a firearm under this subsection shall be fingerprinted and photographed by the police department of the county of registration; provided that this requirement shall be waived where fingerprints and photographs are already on file with the police department. The police department shall perform an inquiry on the person by using the National Instant Criminal Background Check System before any determination to register a firearm is made.”

2. By amending subsection (e) to read:

“(e) No fee shall be charged for the registration[-] of a firearm under this section, except for a fee chargeable by and payable to the registering county for persons registering a firearm under subsection (a), in an amount equal to the fee actually charged by the Federal Bureau of Investigation to the registering police department for a fingerprint check in connection with the registration. In the case of a joint registration, the fee provided for in this section may be charged to each person.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2013.

(Approved July 2, 2013.)

ACT 255

S.B. NO. 2

A Bill for an Act Relating to Simulated Firearms.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 707-716, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of terroristic threatening in the first degree if the person commits terroristic threatening:

- (a) By threatening another person on more than one occasion for the same or a similar purpose;
- (b) By threats made in a common scheme against different persons;
- (c) Against a public servant arising out of the performance of the public servant’s official duties. For the purposes of this paragraph, “public servant” includes but is not limited to an educational worker. “Educational worker” has the same meaning as defined in section 707-711;
- (d) Against any emergency medical services provider who is engaged in the performance of duty. For purposes of this paragraph, “emergency medical services provider” means emergency medical services personnel, as defined in section 321-222, and physicians, physician’s assistants, nurses, nurse practitioners, certified registered nurse anesthetists, respiratory therapists, laboratory technicians, radiology technicians, and social workers, providing services in the emergency room of a hospital;
- (e) With the use of a dangerous instrument[;] or a simulated firearm. For purposes of this section, “simulated firearm” means any object that:
 - (i) Substantially resembles a firearm;
 - (ii) Can reasonably be perceived to be a firearm; or
 - (iii) Is used or brandished as a firearm; or
- (f) By threatening a person who:
 - (i) The defendant has been restrained from, by order of any court, including an ex parte order, contacting, threatening, or physically abusing pursuant to chapter 586; or
 - (ii) Is being protected by a police officer ordering the defendant to leave the premises of that protected person pursuant to section 709-906(4), during the effective period of that order.”

SECTION 2. Section 708-840, Hawaii Revised Statutes, is amended by amending subsections (1) and (2) to read as follows:

“(1) A person commits the offense of robbery in the first degree if, in the course of committing theft or non-consensual taking of a motor vehicle:

- (a) The person attempts to kill another or intentionally or knowingly inflicts or attempts to inflict serious bodily injury upon another;
- (b) The person is armed with a dangerous instrument or a simulated firearm and:
 - (i) The person uses force against the person of anyone present with intent to overcome that person’s physical resistance or physical power of resistance; or
 - (ii) The person threatens the imminent use of force against the person of anyone present with intent to compel acquiescence to the taking of or escaping with the property;
- (c) The person uses force against the person of anyone present with the intent to overcome that person’s physical resistance or physical power of resistance during the time of a civil defense emergency proclaimed by the governor pursuant to chapter 128, within the area covered by the civil defense emergency or during the period of disaster relief under chapter 127; or
- (d) The person threatens the imminent use of force against the person of anyone present with intent to compel acquiescence to the taking

of or escaping with the property during the time of a civil defense emergency proclaimed by the governor pursuant to chapter 128, within the area covered by the civil defense emergency or during the period of disaster relief under chapter 127.

(2) As used in this section[~~—“dangerous instrument”~~]:

“Dangerous instrument” means any firearm, whether loaded or not, and whether operable or not, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or threatened to be used is capable of producing death or serious bodily injury.

“Simulated firearm” means any object that:

- (a) Substantially resembles a firearm;
- (b) Can reasonably be perceived to be a firearm; or
- (c) Is used or brandished as a firearm.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 2, 2013.)

ACT 256

H.B. NO. 430

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 97, Session Laws of Hawaii 2011, is amended by amending section 3 to read as follows:

“SECTION 3. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§235- Itemized deductions; limitations. Notwithstanding any other law to the contrary, itemized tax deductions claimed pursuant to this chapter shall not exceed the lesser of:

- (1) The limitation on itemized deductions under section 68 of the Internal Revenue Code; or
- (2) Any of the following that may be applicable:
 - (A) \$25,000 for a taxpayer filing a single return or a married person filing separately with a federal adjusted gross income of \$100,000 or more;
 - (B) \$37,500 for a taxpayer filing as a head of household with a federal adjusted gross income of \$150,000 or more; and
 - (C) \$50,000 for a taxpayer filing a joint return or as a surviving spouse with a federal adjusted gross income of \$200,000 or more[-];

provided that the cap amounts established in this paragraph shall not apply to charitable contributions deductible under this chapter.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2013, and shall apply to taxable years beginning after December 31, 2012.

(Approved July 2, 2013.)

ACT 257

S.B. NO. 1082

A Bill for an Act Relating to Transportation of School Children.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. In November 2012, the student bus transportation study final report was received by the department of education from its consultant, Management Partnership Services, Inc. The final report cited concerns with sections 302A-406 and 302A-407, Hawaii Revised Statutes, and in particular, noted section 302A-407, Hawaii Revised Statutes, as atypically specifying contractual requirements by statute. The final report cites the high costs of service as an initial indication that the contracting process requires revision and states that the function of the contracting process must allow the State reasonable flexibility to maximize the use of resources.

The legislature finds and determines that the restructuring of contracting practices, policies, and procedures for state-authorized student transportation services is of utmost importance to ensure that school children are transported to and from school safely, efficiently, and at a reasonable cost. The legislature further finds and determines that the statutory provisions governing contracts for the transportation of school children should be revised in a manner that will enable the department of education to implement the recommendations of the department's consultants and the auditor in Auditor's Report No. 12-07 of August 2012 to restructure the practices, policies, and procedures of the department applicable to the transportation of school children and the procurement, execution, administration, and management of contracts for such transportation.

Accordingly, the purpose of this Act is to provide the department of education with greater flexibility in the contracting of student transportation to improve service delivery and contain escalating costs.

SECTION 2. Section 302A-406, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department may provide suitable transportation to and from school and for educational field trips for all children in grades kindergarten to twelve and in special education classes. The department shall adopt [~~such policy, procedure, and program~~] policies, procedures, and programs as it deems necessary to provide suitable transportation. [~~In formulating the policy, procedure, and program, the department shall consider the school district; the school attendance area in which a school child normally resides; the distance the school child lives from the school; the availability of public carriers or other means of transportation; the frequency, regularity, and availability of public transportation; and the grade level, physical handicap, or special learning disability of a school child, and it may also consider such conditions and circumstances unique or peculiar to a county or area. If the implementation of student instructional hours pursuant to section 302A-251 results in varying schedules for the transportation of students, the department shall consider pick-up and drop-off times that optimize the department's transportation services while minimizing costs to the State.~~]"

SECTION 3. Section 302A-407, Hawaii Revised Statutes, is amended to read as follows:

“§302A-407 School bus contracts. ~~[(a) Any other law to the contrary notwithstanding, school bus contracts between the State and a private contractor may be extended for two years by mutual agreement; provided that the parties may agree to extend the contract for an additional two years thereafter. The compensation due to the contractor by the State for each extended year may be increased by an amount not to exceed five per cent of the previous year's compensation. In addition, the compensation due to the contractor by the State for any original or extended contract year may be increased by a reasonable amount for unanticipated inflationary increases in the cost of fuel. If the original contract between the State and a private contractor already includes an option to extend the contract period, this subsection shall apply after the contract option is exercised.~~

~~(b) In the renegotiation for the extension of any contract, the contractor shall be notified at least three months in advance to prepare data and facts relating to fuel cost for the justification of an increase in the amount for the new contract period.~~

~~(c) If a school is temporarily closed due to an unexpected disruption necessitating the closing of the school, the contractor and the State may enter into renegotiation for payments of fixed costs.~~

~~(d) The contract between the State and the contractor shall include an age limit for the school bus vehicles that may be used. The serviceability of a vehicle shall be determined by chapter 286.~~

~~(e) The] (a) Any school bus~~ contract between the State and the contractor shall include a provision requiring the contractor to equip the contractor's vehicles with the signs and visual signals described in section 291C-95(d) and (g). The contract shall also include other provisions as may be deemed necessary by the State for the safety of school bus passengers and shall include provisions requiring ~~[periodic refurbishment of school buses over ten years old.]~~ compliance with the rules and standards described in section 286-181.

~~[(f)] (b)~~ All moneys received from students and parents or guardians of students by public schools for state-provided school busing services, as authorized by section 302A-406, shall be deposited into the school bus fare revolving fund. Except as otherwise provided by the legislature, expenditures for the operation of state-contracted school bus services, as authorized by section 302A-406, shall be made from this fund.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 2, 2013.)

ACT 258

S.B. NO. 1083

A Bill for an Act Relating to Transportation of School Children.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and determines that student transportation costs have escalated in recent years, prompting the legislature to man-

date comprehensive assessments and reports relating to the transportation of school children. In November 2012, the Student Bus Transportation Study Final Report was received by the department of education from its consultant, Management Partnership Services, Inc., confirming that student transportation costs have escalated unacceptably in recent years. The final report cited statutory compensation requirements as a constraint on contracting for bus services. The report noted that statutory wording has the most direct impact on system efficiencies, as it establishes a floor for bus driver salaries.

Consequently, the legislature further finds and determines that the statutory provisions governing the transportation of school children and contracts for such transportation should be revised in a manner that will enable the department of education to implement the recommendations of the department's consultants to restructure practices, policies, and procedures relating to requests for proposals, thereby providing greater flexibility in determining market values while maintaining the integrity of the procurement process through specifications in contract negotiation.

The purpose of this Act, therefore, is to exempt contracts providing student transportation services from statutory requirements for labor costs.

SECTION 2. Section 103-55, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) This section shall apply to all contracts to perform services in excess of \$25,000, including contracts to supply ambulance service and janitorial service.

This section shall not apply to:

- (1) Managerial, supervisory, or clerical personnel.
- (2) Contracts for supplies, materials, or printing.
- (3) Contracts for utility services.
- (4) Contracts to perform personal services under paragraphs (2), (3), (12), and (15) of section 76-16, paragraphs (7), (8), and (9) of section 46-33, and paragraphs (7), (8), and (12) of section 76-77.
- (5) Contracts for professional services.
- (6) Contracts to operate refreshment concessions in public parks, or to provide food services to educational institutions.
- (7) Contracts to provide transportation services for school children.
- ~~(7)~~ (8) Contracts with nonprofit institutions."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 2, 2013.)

ACT 259

H.B. NO. 811

A Bill for an Act Relating to Energy Information Reporting.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to improve the ease and efficiency of Energy Industry Information Reporting Act processes for reporting entities by combining all information and registration gathering functions within the department of business, economic development, and tourism. This Act also

clarifies enforcement and investigatory powers of the public utilities commission following the consolidation of information gathering and registration functions within the department of business, economic development, and tourism.

SECTION 2. Section 486B-1.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§486B-1.5]] Monitoring of petroleum industry information.~~ The public utilities commission or the department of business, economic development, and tourism shall refer to the attorney general any matter that is a violation of this chapter that is discovered in the performance of its duties pursuant to chapter 486H or 486J.”

SECTION 3. Section 486J-2, Hawaii Revised Statutes, is amended to read as follows:

“§486J-2 Distributors to register. Every distributor, and any person before becoming a distributor, shall register as such with the ~~[commission]~~ department on forms to be prescribed, prepared, and furnished by the ~~[commission]~~ department.”

SECTION 4. Section 486J-11, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2013.

(Approved July 3, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 260

H.B. NO. 1405

A Bill for an Act Relating to the Public Utilities Commission.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. The legislature finds that transparency in the process of purchasing renewable electricity generated from nonfossil fuel sources serves the interests of independent power producers who compete to sell energy to the energy utilities and the rate-paying public by creating an opportunity for review and oversight of the public utilities commission’s decision-making process.

The purpose of this part is to increase transparency in power purchase contracts for renewable energy by requiring the public utilities commission to include a summary of power purchase agreements, including pricing, in effect during the applicable fiscal year in its annual report to the governor.

SECTION 2. Section 269-5, Hawaii Revised Statutes, is amended to read as follows:

“§269-5 Annual report and register of orders. The public utilities commission shall prepare and present to the governor, through the director of finance,

in the month of January in each year a report respecting its actions during the preceding fiscal year. This report shall include summary information and analytical, comparative, and trend data concerning major regulatory issues acted upon and pending before the commission; cases processed by the commission, including their dispositions; utility company operations, capital improvements, and rates; utility company performance in terms of efficiency and quality of services rendered; a summary of power purchase agreements, including pricing, in effect during the fiscal year; environmental matters having a significant impact upon public utilities; actions of the federal government affecting the regulation of public utilities in Hawaii; long and short-range plans and objectives of the commission; together with the commission's recommendations respecting legislation and other matters requiring executive and legislative consideration. Copies of the annual reports shall be furnished by the governor to the legislature. In addition, the commission shall establish and maintain a register of all its orders and decisions, which shall be open and readily available for public inspection, and no order or decision of the commission shall take effect until it is filed and recorded in this register."

PART II

SECTION 3. Section 269-121, Hawaii Revised Statutes, is amended to read as follows:

"§269-121 Public benefits fee authorization. (a) The public utilities commission, by order or rule, may require that all or a portion of the moneys collected by Hawaii's electric utilities from its ratepayers through a demand-side management surcharge be transferred to a third-party administrator contracted by the public utilities commission. The moneys transferred shall be known as the public benefits fee.

(b) The public benefits fee shall be used to support ~~[energy efficiency]~~ clean energy technology, demand response technology, and energy use reduction, and demand-side management infrastructure, programs, and services, subject to the review and approval of the public utilities commission. These moneys shall not be available to meet any current or past general obligations of the State; provided that the State may participate in any ~~[energy efficiency or]~~ clean energy technology, demand response technology, or energy use reduction, and demand-side management infrastructure, programs, and services on the same basis as any other electric consumer.

For the purpose of this subsection, "clean energy technology" means any commercially available technology that enables the State to meet the renewable portfolio standards, established pursuant to section 269-92, or the energy-efficiency portfolio standards, established pursuant to section 269-96, approved by the public utilities commission by rule or order.

(c) Nothing in this section shall create or be construed to cause the public benefits fee to be considered state or public moneys subject to appropriation by the legislature or be required to be deposited into the state treasury."

PART III

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2013.

(Approved July 3, 2013.)

A Bill for an Act Relating to Renewable Energy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that, although addressed to a limited extent in declaratory rulings and case law, under current statute it may be interpreted that a lessor or property owner who installs a renewable energy system on property and sells the electricity generated to the lessees or tenants on the property may be defined as a public utility. The legislature further finds that any lease agreement involving the purchase by lessees or tenants of electricity generated by a renewable energy system of the lessor or property owner needs to include certain disclosures for the protection of the lessees or tenants. For example, a rate data sheet for Kauai Island Utility Cooperative and effective rate summaries for the Hawaiian Electric Companies are filed monthly with the public utilities commission, and these filings can also be found on each respective electric utility's website for the purpose of obtaining current effective rate information.

The purpose of this Act is to remove any ambiguity by exempting landlords and lessors who install renewable energy systems on their property and provide, sell, or transmit electricity generated from those renewable energy systems to tenants or lessees on the premises, from the definition of public utility and to provide for disclosures in the lease agreement for the protection of the lessees or tenants.

SECTION 2. Section 269-1, Hawaii Revised Statutes, is amended by amending the definition of "public utility" to read as follows:

““Public utility”:

- (1) Includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use for the transportation of passengers or freight; for the conveyance or transmission of telecommunications messages; for the furnishing of facilities for the transmission of intelligence by electricity within the State or between points within the State by land, water, or air; for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil; for the storage or warehousing of goods; or for the disposal of sewage; provided that the term shall include:
 - (A) An owner or operator of a private sewer company or sewer facility; and
 - (B) A telecommunications carrier or telecommunications common carrier; and
- (2) Shall not include:
 - (A) An owner or operator of an aerial transportation enterprise;
 - (B) An owner or operator of a taxicab as defined in this section;
 - (C) Common carriers that transport only freight on the public highways, unless operating within localities, along routes, or between points that the public utilities commission finds to be inadequately serviced without regulation under this chapter;
 - (D) Persons engaged in the business of warehousing or storage unless the commission finds that regulation is necessary in the public interest;

- (E) A carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the State; provided that the towing, salvage, hauling, or carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally;
- (F) A carrier by water, substantially engaged in interstate or foreign commerce, that transports passengers on luxury cruises between points within the State or on luxury round-trip cruises returning to the point of departure;
- (G) Any user, owner, or operator of the Hawaii electric system as defined under section 269-141;
- (H) A telecommunications provider only to the extent determined by the public utilities commission pursuant to section 269-16.9;
- (I) Any person who controls, operates, or manages plants or facilities developed pursuant to chapter 167 for conveying, distributing, and transmitting water for irrigation and other purposes for public use and purpose;
- (J) Any person who owns, controls, operates, or manages plants or facilities for the reclamation of wastewater; provided that:
 - (i) The services of the facility are provided pursuant to a service contract between the person and a state or county agency and at least ten per cent of the wastewater processed is used directly by the state or county agency that entered into the service contract;
 - (ii) The primary function of the facility is the processing of secondary treated wastewater that has been produced by a municipal wastewater treatment facility owned by a state or county agency;
 - (iii) The facility does not make sales of water to residential customers;
 - (iv) The facility may distribute and sell recycled or reclaimed water to entities not covered by a state or county service contract; provided that, in the absence of regulatory oversight and direct competition, the distribution and sale of recycled or reclaimed water shall be voluntary and its pricing fair and reasonable. For purposes of this subparagraph, "recycled water" and "reclaimed water" means treated wastewater that by design is intended or used for a beneficial purpose; and
 - (v) The facility is not engaged, either directly or indirectly, in the processing of food wastes;
- (K) Any person who owns, controls, operates, or manages any seawater air conditioning district cooling project; provided that at least fifty per cent of the energy required for the seawater air conditioning district cooling system is provided by a renewable energy resource, such as cold, deep seawater;
- (L) Any person who owns, controls, operates, or manages plants or facilities primarily used to charge or discharge a vehicle battery that provides power for vehicle propulsion; [and]
- (M) Any person who:
 - (i) Owns, controls, operates, or manages a renewable energy system that is located on a customer's property; and

- (ii) Provides, sells, or transmits the power generated from that renewable energy system to an electric utility or to the customer on whose property the renewable energy system is located; provided that, for purposes of this subparagraph, a customer's property shall include all contiguous property owned or leased by the customer without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way, and utility rights-of-way[-]; and
- (N) Any person who owns, controls, operates, or manages a renewable energy system that is located on such person's property and provides, sells, or transmits the power generated from that renewable energy system to an electric utility or to lessees or tenants on the person's property where the renewable energy system is located; provided that:
 - (i) An interconnection, as defined in section 269-141, is maintained with an electric public utility to preserve the lessees' or tenants' ability to be served by an electric utility;
 - (ii) Such person does not use an electric public utility's transmission or distribution lines to provide, sell, or transmit electricity to lessees or tenants;
 - (iii) At the time that the lease agreement is signed, the rate charged to the lessee or tenant for the power generated by the renewable energy system shall be no greater than the effective rate charged per kilowatt hour from the applicable electric utility schedule filed with the public utilities commission;
 - (iv) The rate schedule or formula shall be established for the duration of the lease, and the lease agreement entered into by the lessee or tenant shall reflect such rate schedule or formula;
 - (v) The lease agreement shall not abrogate any terms or conditions of applicable tariffs for termination of services for non-payment of electric utility services or rules regarding health, safety, and welfare;
 - (vi) The lease agreement shall disclose: (1) the rate schedule or formula for the duration of the lease agreement; (2) that, at the time that the lease agreement is signed, the rate charged to the lessee or tenant for the power generated by the renewable energy system shall be no greater than the effective rate charged per kilowatt hour from the applicable electric utility schedule filed with the public utilities commission; (3) that the lease agreement shall not abrogate any terms or conditions of applicable tariffs for termination of services for non-payment of electric utility services or rules regarding health, safety, and welfare; and (4) whether the lease is contingent upon the purchase of electricity from the renewable energy system; provided further that any disputes concerning the requirements of this provision shall be resolved pursuant to the provisions of the lease agreement or chapter 521, if applicable; and
 - (vii) Nothing in this section shall be construed to permit wheeling.

If the application of this chapter is ordered by the commission in any case provided in paragraph (2)(C), (D), (H), and (I), the business of any public utility that presents evidence of bona fide operation on the date of the commencement of the proceedings resulting in the order shall be presumed to be necessary to the public convenience and necessity, but any certificate issued under this proviso shall nevertheless be subject to terms and conditions as the public utilities commission may prescribe, as provided in sections 269-16.9 and 269-20.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 3, 2013.)

ACT 262

H.B. NO. 1149

A Bill for an Act Relating to Wind Energy Facilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that production of wind energy on a commercial scale frequently requires significant land disturbance and large installations consisting of wind turbines, electrical substations, electrical lines, and other supporting systems. Wind energy facilities, if abandoned or not properly maintained, could pose a hazard to public health, safety, and welfare through mechanical failures, electrical hazards, or the release of hazardous substances. Abandoned or neglected wind energy facilities may also be a blight on the State's natural beauty.

The legislature further finds that other states with large-scale wind energy facilities have developed robust decommissioning regulations for windmills that are abandoned or left in disrepair. Decommissioning regulations help to ensure the health and safety of the public, especially those persons residing near the wind energy facility.

The purpose of this Act is to protect the public against health and safety hazards and to preserve the natural beauty of Hawaii. This Act establishes standards and assurances of adequate financial resources for the safe and proper decommissioning of wind energy facilities at the end of their useful lives.

SECTION 2. Chapter 201N, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . DECOMMISSIONING OF WIND ENERGY FACILITIES

§201N-A Definitions. As used in this part, unless the context otherwise requires:

“Abandonment” means the failure to generate electricity from a commercial wind energy facility for a period of twenty-four consecutive months for reasons other than curtailment, repowering, a valid judicial order, or other governmental regulatory action, with no pending negotiations for purchase or a power purchase agreement. A commercial wind energy facility shall not be considered abandoned if the owner or operator has elected not to run the facility, but it has been maintained in proper working order and is capable of generating

electricity; provided that, if, after thirty-six months, the facility has not generated power in commercial quantities, the facility shall be deemed abandoned.

“Commencement of construction”:

- (1) Means beginning excavation of wind turbine foundations or other actions relating to the eventual erection and installation of commercial wind energy equipment; but
- (2) Shall not include erection of meteorological data towers, environmental assessments, environmental impact statements, surveys, preliminary engineering, or other activities associated with an assessment of the development of the wind resources on a given parcel of property.

“Commercial generation date” means the date on which a wind turbine first generates electrical energy in commercial quantities.

“Commercial quantities” means an amount of electrical energy sufficient for sale or use off-site from a wind turbine or wind energy facility, and shall not include amounts of electrical energy used only for the maintenance or testing of the wind turbine or wind energy facility itself.

“Commercial wind energy equipment” means a wind tower and turbine with five hundred kilowatts or greater of total nameplate generating capacity.

“Owner” means an entity having a controlling interest in the commercial wind energy facility and equipment, including the entity’s respective successors and assigns.

“Useful life” means the time during which a wind turbine or wind energy facility is generating electricity in commercial quantities.

“Wind energy facility”:

- (1) Means an electrical generation facility consisting of one or more wind turbines under common ownership or operating control, and includes substations, meteorological data towers, aboveground and underground electrical transmission lines, transformers, control systems, and other buildings or facilities used to support the operation of the facility, and whose primary purpose is to supply electricity to an off-site customer; but
- (2) Shall not include a wind energy facility located entirely on property held in fee simple estate by the owner of the wind energy facility if the energy produced is consumed on-site solely by the owner.

“Wind turbine” means a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the turbine, blade, tower, base, and pad transformer, if any.

§201N-B Decommissioning of wind energy facilities. (a) Any owner of a commercial wind energy facility utilizing the renewable energy facility siting process shall be responsible, at the owner’s expense, for the decommissioning of the wind energy facility upon abandonment or the end of the useful life of the commercial wind energy equipment in the wind energy facility. Nothing in this section shall prevent county permitting agencies from including decommissioning requirements as a condition for a building permit.

(b) Decommissioning of a wind energy facility shall include:

- (1) Removal of wind turbines, towers, buildings, cabling, electrical components, foundations, and any other associated facilities, to a depth of thirty inches below grade; and
- (2) Restoring disturbed earth to substantially the same physical condition as existed prior to the commencement of the wind energy facility by the owner, including grading and reseeded.

(c) The decommissioning of a wind energy facility or individual pieces of commercial wind energy equipment shall be completed as follows:

- (1) By the owner of the wind energy facility within twelve months after abandonment or the end of the useful life of the commercial wind energy equipment in the wind energy facility; or
- (2) If the owner of the wind energy facility fails to complete the decommissioning within the period prescribed in paragraph (1), the owner of the land on which the wind energy facility is located shall take necessary measures to complete decommissioning of the wind energy facility. The owner of the land shall have access to the financial security as described in section 201N-C for the purpose of decommissioning the wind energy facility.

(d) This part shall not apply to wind energy facilities existing in the State on the effective date of this Act, provided that:

- (1) An existing lease or other agreement between the wind energy facility owner and the owner of the land on which the facility is located, or a power purchase agreement under which the wind energy facility owner is operating, provides for the decommissioning of the wind energy facility after abandonment or the end of the useful life of the commercial wind energy equipment in the wind energy facility; or
- (2) The wind energy facility was constructed on fee simple land owned by the wind energy facility owner.

§201N-C Evidence of financial security. (a) Prior to the commercial generation date, the owner shall file with the coordinator evidence of financial security to cover the anticipated costs of decommissioning the wind energy facility. Evidence of financial security may be in the form of a surety bond, performance bond, collateral bond, parent guaranty, or letter of credit. Any such financial security shall be in a form that allows the land owner to draw on it in any instance described in section 201N-B(c)(2).

(b) The evidence of financial security shall be accompanied by an estimate of the total cost of decommissioning, minus the salvage value of the equipment, prepared by a professional engineer licensed in the State. The amount of the evidence of financial security shall be either:

- (1) The estimate of the total cost of decommissioning, minus the salvage value of the equipment, which shall be filed with the coordinator prior to final approval permitting energy generation in commercial quantities and every five years thereafter for the useful life of the wind energy facility; or
- (2) One hundred per cent of the estimate of the total cost of decommissioning, as determined by a licensed engineer, which shall be filed with the coordinator prior to final approval permitting energy generation in commercial quantities. The funds shall be placed in an interest-bearing account and any accrued interest that is not applied toward decommissioning shall be returned to the wind energy facility owner.

(c) If the owner of a wind energy facility fails to file the information required under this section with the coordinator, the owner of the wind energy facility shall be subject to an administrative penalty not to exceed \$1,500 per day.

(d) If a transfer of ownership of a wind energy facility occurs, the evidence of financial security posted by the transferor shall remain in place and shall not be released until such time as evidence of financial security meeting the requirements of this section is posted by the new owner of the wind energy facility.

- (e) This section shall apply to:
 - (1) Any construction of a commercial wind energy facility or portion thereof; and
 - (2) Any wind energy facility entering into or renewing a power purchase agreement for the energy generated by the wind energy facility.”

SECTION 3. Chapter 201N, Hawaii Revised Statutes, is amended by designating sections 201N-1 to 201N-14 as part I, entitled:

“PART I. GENERAL PROVISIONS”

SECTION 4. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved July 3, 2013.)

ACT 263

H.B. NO. 632

A Bill for an Act Relating to Open Data.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. In recent years, the idea that certain data should be freely available to everyone to use and republish as they wish, without restrictions from copyright, patents, or other mechanisms of control, has become prevalent. This concept, which is generally referred to as open data, applies to data that is already deemed public and made available electronically, such as on a website; it could include department, agency, and legislative data. Open data is not data that is governed by privacy, security, confidentiality or any protection of the law.

Open data is a top initiative of the chief information officer, as identified in the State of Hawaii Business and Information Technology/Information Resource Management Transformation Plan. The purpose of the initiative is to increase public awareness and access to data and information created by and available from state departments and agencies, enhance government transparency and accountability, encourage public engagement, and stimulate innovation with the development of new analyses or applications based on the unique data provided by the State.

The State launched its open data site, data.hawaii.gov, with data sets being voluntarily provided by departments and agencies. The site incorporates data that was readily available in digital format and commonly requested by the public. The intent of this Act is to continue and ensure the efforts of the chief information officer in the multi-year, multi-phased program open data initiative. This Act is not intended to impede or delay state agencies’ currently ongoing efforts to move data online. This Act is not intended to limit or expand a person’s ability to access a public record under chapter 92F. This Act is not intended to create any new liability, and instead is intended to protect the state from any liability for making open data available to the public, except for gross negligence, wilful and wanton misconduct, or intentional misconduct.

SECTION 2. Chapter 27, Hawaii Revised Statutes, is amended by adding five new sections to part VII to be appropriately designated and to read as follows:

“§27-A Definitions. For purposes of this part:

“Data” means final versions of statistical or factual information:

- (1) In alphanumeric form reflected in a list, table, graph, chart, or other non-narrative form, that can be digitally transmitted or processed; and
- (2) Regularly created or maintained by or on behalf of and owned by an executive branch department that records a measurement, transaction, or determination related to the mission of that executive branch department.

“Data set” means a named collection of related records on an electronic storage device, with the collection containing individual data units organized or formatted in a specific and prescribed way, often in tabular form, and accessed by a specific access method that is based on the data set organization; provided that a data set shall not include any data that is protected from disclosure under applicable federal or state law, or contract, or data that is proprietary.

§27-B Electronic data set availability; updates. (a) Each executive branch department shall use reasonable efforts to make appropriate and existing electronic data sets maintained by the department electronically available to the public through the State’s open data portal at data.hawaii.gov or successor website designated by the chief information officer; provided that:

- (1) Nothing in this chapter shall require departments to create new electronic data sets or to make datasets available upon demand;
- (2) Data licensed to the state by another person or entity shall not be made public under this chapter unless the person or entity licensing the data agrees to the public disclosure; and
- (3) Proprietary and other information protected from disclosure by law or contract shall not be disclosed.

Such disclosure shall be consistent with the policies, procedures, and standards developed by the chief information officer and consistent with applicable law, including chapter 92F and other state and federal laws related to security and privacy, and no personally identifiable information shall be posted online unless the identified individual has consented to the posting or the posting is necessary to fulfill the lawful purposes or duties of the department.

(b) Nothing in this chapter shall require the chief information officer to adopt rules pursuant to chapter 91 and nothing in this chapter shall supersede chapter 27G.

(c) Each department shall update its electronic data sets in the manner prescribed by the chief information officer and as often as is necessary to preserve the integrity and usefulness of the data sets to the extent that the department regularly maintains or updates the data sets.

§27-C State liability for data sets. Data sets shall be available for informational purposes only. The State does not warrant the fitness of any data set for a particular purpose and shall not be liable for any deficiencies in the completeness or accuracy of any data set, except where the State’s conduct would constitute gross negligence, wilful and wanton misconduct, or intentional misconduct.

§27-D Data set licensing. The chief information officer may make the departments’ electronic data sets on data.hawaii.gov available to third parties

pursuant to a license, which may require the licensee to allow any user to copy, distribute, display, or create derivative works at no cost and with an appropriate level of conditions placed on the use.

§27-E Data set policies and procedures. (a) The chief information officer, in consultation with the office of information practices, shall develop policies and procedures to implement section 27-B, including standards to determine which data sets are appropriate for online disclosure as provided in section 27-B; provided that the standards shall not require the departments to post information that is otherwise required to be disclosed under chapter 92F, but is personally identifiable information, information that may pose a personal or public security risk, is of minimal public interest, or is otherwise inappropriate for on-line disclosure as part of a data set.

- (b) The policy and procedures shall include the following:
 - (1) Technical requirements with the goal of making data sets available to the greatest number of users and for the greatest number of applications, including whenever practicable, the use of machine readable, non-proprietary technical standards for web publishing; and
 - (2) Guidelines for departments to follow in making data sets available.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 for the office of information practices to establish one full-time equivalent (1.0 FTE) position, to promote open data pursuant to this Act and chapter 92F, Hawaii Revised Statutes, the Uniform Information Practices Act (Modified).

The sums appropriated shall be expended by the office of information practices for the purposes of this Act.

SECTION 4. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 5. New statutory material is underscored.¹

SECTION 6. This Act shall take effect on July 1, 2013.

(Approved July 3, 2013.)

Note

- 1. Edited pursuant to HRS §23G-16.5.

ACT 264

H.B. NO. 635

A Bill for an Act Relating to Broadband.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 27, Hawaii Revised Statutes, is amended by adding a new section to part VII to be appropriately designated and to read as follows:

“§27- Broadband-related permits; automatic approval. (a) The State shall approve, approve with modification, or disapprove all applications for broadband-related permits within sixty days of submission of a complete permit application and full payment of any applicable fee; provided that this subsection shall not apply to a conservation district use application for broadband facilities. If, on the sixty-first day, an application is not approved, approved with modification, or disapproved by the State, the application shall be deemed approved by the State.

(b) The State shall approve, approve with modification, or disapprove use applications for broadband facilities within the conservation district within one hundred forty-five days of submission of a complete application and full payment of any applicable fee. If, on the one hundred forty-sixth day, an application is not approved, approved with modification, or disapproved by the State, the application shall be deemed approved by the State.

(c) Permits issued pursuant to this section shall contain the following language: “This is a broadband-related permit issued pursuant to section 27- , Hawaii Revised Statutes.”

(d) An applicant and a public utility shall comply with all applicable safety and engineering requirements relating to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology.

(e) No action shall be prosecuted or maintained against the State, its officials, or employees on account of actions taken in reviewing, approving, modifying, or disapproving a permit application pursuant to this section, or against public utilities resulting from such actions.

(f) The sixty day time period established by subsection (a) shall be extended in the event of a natural disaster, state emergency, or union strike that prevents the applicant, agency, or department from fulfilling application review requirements.

(g) If an application is incomplete, the State shall notify the applicant in writing within ten business days of submittal of the application. The notice shall inform the applicant of the specific requirements necessary to complete the application. The sixty-first day automatic approval provisions under subsection (a) shall continue to apply to the application only if the applicant satisfies the specific requirements of the notice and submits a complete application within five business days of receipt of the notice.

(h) Nothing in this section shall affect the provisions of section 3 of Act 151, Session Laws of Hawaii 2011.

(i) For the purposes of this section, “broadband-related permits” means all state permits required to commence actions with respect to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology, including the interconnection of telecommunications cables, cable installation, tower construction, placement of broadband equipment in the road rights-of-way, and undersea boring, or the landing of an undersea communications cable. The term does not include any state permit for which the approval of a federal agency is explicitly required pursuant to federal law, rule, or regulation, prior to granting final permit approval by the State.”

SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§46- Broadband-related permits; automatic approval. (a) A county shall approve, approve with modification, or disapprove all applications for

broadband-related permits within sixty days of submission of a complete permit application and full payment of any applicable fee. If, on the sixty-first day, an application is not approved, approved with modification, or disapproved by the county, the application shall be deemed approved by the county.

(b) Permits issued pursuant to this section shall contain the following language: "This is a broadband-related permit issued pursuant to section 46- , Hawaii Revised Statutes."

(c) An applicant and a public utility shall comply with all applicable safety and engineering requirements relating to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology.

(d) No action shall be prosecuted or maintained against any county, its officials, or employees on account of actions taken in reviewing, approving, modifying, or disapproving a permit application pursuant to this section, or against public utilities resulting from such actions.

(e) The sixty day time period established by subsection (a) shall be extended in the event of a natural disaster, state emergency, or union strike that prevents the applicant, agency, or department from fulfilling application review requirements.

(f) If an application is incomplete, the county agency shall notify the applicant in writing within ten business days of submittal of the application. The notice shall inform the applicant of the specific requirements necessary to complete the application. The sixty-first day automatic approval provisions under subsection (a) shall continue to apply to the application only if the applicant satisfies the specific requirements of the notice and submits a complete application within five business days of receipt of the notice.

(g) Nothing in this section shall affect the provisions of section 3 of Act 151, Session Laws of Hawaii 2011.

(h) For the purposes of this section, "broadband-related permits" means all county permits required to commence actions with respect to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology, including the interconnection of telecommunications cables, cable installation, tower construction, placement of broadband equipment in the road rights-of-way, and undersea boring, or the landing of an undersea communications cable. The term does not include any county permit for which the approval of a federal agency is explicitly required pursuant to federal law, rule, or regulation, prior to granting final permit approval by the county."

SECTION 3. Act 151, Session Laws of Hawaii 2011, is amended by amending sections 2 and 3 to read as follows:

"SECTION 2. From January 1, 2012, to January 1, 2017, actions relating to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology, including the interconnection of telecommunications cables, shall be exempt from county permitting requirements, state permitting and approval requirements, which includes the requirements of chapters 171, 205A, and 343, Hawaii Revised Statutes, and public utilities commission rules under Hawaii Administrative Rules, chapter 6-73, that require existing installations to comply with new pole replacement standards at the time of any construction or alteration to the equipment or installation, except to the extent that such permitting or approval is required by federal law or is necessary to protect eligibility for federal funding, services, or other assistance;

provided that the installation, improvement, construction, or development of infrastructure shall:

- (1) Be directly related to the improvement of existing telecommunications cables or the installation of new telecommunications cables:
 - (A) On existing or replacement utility poles and conduits; and
 - (B) Using existing infrastructure and facilities;
- (2) Take place within existing rights-of-way or public utility easements or use existing telecommunications infrastructure; and
- (3) Make no significant changes to the existing public rights-of-way, public utility easements, or telecommunications infrastructure.

~~[A person or entity]~~ An applicant shall ~~[use reasonable best efforts to]~~ comply with all applicable safety and engineering requirements relating to the installation, improvement, construction, or development of infrastructure relating to broadband service.

A person or entity taking any action under this section shall, at least thirty calendar days before the action is taken, provide notice to the director of commerce and consumer affairs by electronic posting in the form and on the site designated by the director for such posting on the designated central State of Hawaii Internet website; provided that notice need not be given by a public utility or government entity for an action relating to the installation, improvement, construction, or development of infrastructure relating to broadband service or broadband technology where the action taken is to provide access as the owner of the existing rights-of-way, utility easements, or telecommunications infrastructure.

SECTION 3. Consistent with federal law, no person or entity shall be required to upgrade or replace an existing utility pole when using that utility pole to install new telecommunications cables or to improve existing telecommunications cables; provided that:

- (1) The overall weight load and the diameter of the attachment on the utility pole following the installation or improvement does not exceed the overall weight load and diameter of the attachment prior to the installation or improvement; ~~[and]~~
- (2) The overall weight load on the utility pole does not exceed maximum utility pole safe weight capacities established by the Federal Communications Commission and the public utilities commission;
and
- ~~[(2)]~~ (3) The utility pole is not damaged or made less safe or reliable due to the installation or improvement of telecommunications cables.

The public utilities commission may allow a public utility to recover all prudently incurred costs as approved through rates, charges, or clauses approved or established by the public utilities commission pursuant to section 269-16, Hawaii Revised Statutes, including but not limited to planning, engineering, construction, installation, or replacement of utility poles undertaken to accomplish the objectives of this Act. Recovery of all prudently incurred costs shall also apply to a broadband service provider.

If access to a utility pole is not granted within forty-five days of a written request for access, the utility must confirm the denial in writing by the forty-fifth day, consistent with the requirements established by the Federal Communications Commission under Title 47, Chapter 1, Code of Federal Regulations. The utility's denial of access shall be specific, shall include all relevant evidence and information supporting its denial, and shall explain how such evidence and information relate to a denial of access for reasons of lack of capacity, safety, reliability, or engineering standards."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on January 1, 2014, and shall be repealed on June 30, 2018; provided that this Act shall apply to permit applications filed with the State or county after December 31, 2013.

(Approved July 3, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 265

S.B. NO. 1003

A Bill for an Act Relating to Information Technology.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Protecting and securing the State of Hawaii's information and data is a top concern in today's cyber world. The State must protect its technology from enemies both outside and within the State. To ensure the security of state government information and protect the data communications infrastructure from unauthorized uses, intrusions, or other security threats, the chief information officer should be given the responsibility and authority to direct the development, adoption, and implementation of policies, procedures, and standards and training personnel to minimize vulnerability to threats, regularly assess security risks, determine appropriate security measures, and perform security audits of government information and data communication infrastructure.

The purpose of this Act is to authorize the chief information officer to conduct or cause to be conducted security audits, which may include reviews of physical security practices, of all executive branch agencies regarding the protection of government information and data communication infrastructure and to direct remedial actions as necessary.

SECTION 2. Chapter 27, Hawaii Revised Statutes, is amended by adding a new section to part VII, to be appropriately designated and to read as follows:

"§27- Additional duties of the chief information officer relating to security of government information. (a) The chief information officer shall provide for periodic security audits of all executive branch departments and agencies regarding the protection of government information and data communication infrastructure.

(b) Security audits may include on-site audits as well as reviews of all written security procedures and documented practices. The chief information officer may contract with a private firm or firms that specialize in conducting security audits; provided that information protected from disclosure by federal or state law, including confidential tax information, shall not be disclosed. All executive branch departments, agencies, boards, or commissions subject to the security audits authorized by this section shall fully cooperate with the entity designated to perform the audit. The chief information officer may direct specific remedial actions to mitigate findings of insufficient administrative, technical, and physical controls necessary to protect state government information or data communication infrastructure.

(c) This section shall not infringe upon responsibilities assigned to the comptroller or the auditor by any state or federal law."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved July 3, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 266

S.B. NO. 1092

A Bill for an Act Making an Appropriation to Recapitalize the Hurricane Reserve Trust Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The State is emerging from one of the most challenging economic periods in its history. During the last several years, extreme measures had to be taken to keep the State solvent, including: furloughs; temporary salary reductions; reductions-in-force; forced downsizing of programs and services; purchasing and hiring freezes; and enactment of temporary revenue enhancements. Additionally, most of the State's fiscal reserves, the emergency and budget reserve fund and the hurricane reserve trust fund, were committed to forestalling even greater spending reductions and revenue enhancement measures.

One of the clear lessons learned from this experience is the necessity of having sufficient fiscal reserves to help sustain the State through the worst conditions. Now that the economy is rebounding and more revenues are available, a concerted effort must be made to recapitalize the State's depleted fiscal reserves as expeditiously as possible.

Act 62, Session Laws of Hawaii 2011, which authorized use of the hurricane reserve trust fund to support the general fund, requires that one-half of the total amount of funds transferred to the general fund (\$111,000,000) in fiscal year 2010-2011 shall be repaid from general excise tax revenues to the Hawaii hurricane relief fund in fiscal years 2013-2014 and 2014-2015. As such, \$55,500,000 will be deposited into the hurricane reserve trust fund each year for fiscal years 2013-2014 and 2014-2015.

This Act proposes to further accelerate recapitalization of fiscal reserves, as is fiscally prudent, by transferring an additional \$50,000,000 to the hurricane reserve trust fund in fiscal year 2013-2014.

The purpose of this Act is to appropriate general funds to the hurricane reserve trust fund. As the State continues its economic recovery, accelerated recapitalization of this fiscal reserve trust fund is prudent and fiscally sound.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the purpose of recapitalizing the hurricane reserve trust fund established in section 431P-16, Hawaii Revised Statutes.

The sum appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved July 3, 2013.)

A Bill for an Act Making an Appropriation to the Emergency and Budget Reserve Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The State is emerging from one of the most challenging economic periods in its history. During the last several years, extreme measures had to be taken to keep the State solvent, including: furloughs; temporary salary reductions; reductions-in-force; forced downsizing of programs and services; purchasing and hiring freezes; and enactment of temporary revenue enhancements. In addition, the State's fiscal reserves, the emergency and budget reserve fund and the hurricane reserve trust fund, were used to prevent even greater spending reductions and revenue enhancement measures.

One of the clear lessons learned from this experience is the necessity of having sufficient amounts of money in the fiscal reserves to help carry the State through the worst economic conditions. Now that the State's economy is rebounding and more revenues are available, a concerted effort must be made to recapitalize the State's depleted fiscal reserves as expeditiously as possible.

While Act 124, Session Laws of Hawaii 2011, temporarily diverted tobacco settlement moneys from the emergency and budget reserve fund to the general fund in fiscal years 2011-2012 and 2012-2013, transfers from the tobacco settlement into the emergency and budget reserve fund will resume in fiscal year 2013-2014.

This Act accelerates the recapitalization of fiscal reserves by transferring an additional \$50,000,000 from general funds to the emergency and budget reserve fund. The legislature finds that as the State continues its economic recovery, accelerated recapitalization of this fiscal reserve fund is prudent and fiscally sound.

The purpose of this Act is to appropriate general funds to the emergency and budget reserve fund.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary shall be deposited into the emergency and budget reserve fund established in section 328L-3, Hawaii Revised Statutes.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved July 3, 2013.)

A Bill for an Act Relating to the Hawaii Employer-Union Health Benefits Trust Fund.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. The purpose of this part is to convene a task force in the department of budget and finance to examine the unfunded liability of the Hawaii employer-union health benefits trust fund.

SECTION 2. (a) There is established a Hawaii employer-union health benefits trust fund task force within the department of budget and finance for administrative purposes to consist of the following members:

- (1) Two members from the house of representatives selected by the speaker of the house of representatives;
- (2) Two members from the senate selected by the senate president;
- (3) The director of finance, or the director's designee;
- (4) One member from the Hawaii Council of Mayors;
- (5) One member from the Hawaii State Association of Counties;
- (6) Four members representing public sector unions who shall be invited to participate by the director of finance;
- (7) One member representing public employee retirees who shall be invited to participate by the director of finance; and
- (8) Four members representing the respective interests of the four counties who shall be selected by the governor.

The director of finance, or the director's designee, shall serve as the chairperson of the task force. The task force shall cease to exist on June 30, 2014.

(b) The members of the task force shall serve without compensation, but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties. No member shall be made subject to chapter 84, Hawaii Revised Statutes, solely because of that member's participation as a member of that task force.

SECTION 3. The Hawaii employer-union health benefits trust fund task force shall examine the unfunded liability of the Hawaii employer-union health benefits trust fund (trust fund), including:

- (1) The current and projected unfunded actuarial accrued liability of the trust fund;
- (2) The availability of medical benefits plans other than plans that pay or reimburse medical services providers under a fee-for-service model;
- (3) The costs and benefits of alternative medical benefits plans in relation to the medical benefits plans currently offered by the trust fund;
- (4) An evaluation of the costs and process of transitioning from the current medical benefits plans to an alternative medical benefits plan, including recommended proposed legislation;
- (5) An evaluation of the current structure of state and county public employers paying a percentage of health insurance policy premiums and providing recommendations for a benefits plan for prospective employees; and
- (6) Any other matters that are relevant to gaining a full and meaningful understanding of the circumstance of the trust fund.

SECTION 4. The director of finance, in consultation with the task force, shall submit a report to the legislature, including findings, recommendations, and proposed legislation, no later than twenty days prior to the convening of the regular session of 2014.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$185,750 or so much thereof as may be necessary for fiscal year 2013-2014 to support the work of the Hawaii employer-union health benefits trust fund task force, including necessary travel expenses for task force members who reside outside of Oahu and consulting services of persons knowledgeable in relevant issues.

The sum appropriated shall be expended by the department of budget and finance for the purposes of this part.

PART II

SECTION 6. Chapter 87A, Hawaii Revised Statutes, is amended by adding two new sections to part IV to be appropriately designated and to read as follows:

“§87A-A Public employers; defined. For the purposes of this part, “public employer” means a governmental entity whose employees’, beneficiaries’, and retirees’ health benefits coverage is provided through the fund.

§87A-B Payment of public employer contributions to the other post-employment benefits trust. (a) Commencing with fiscal year 2018-2019, each of the counties and all other public employers shall make annual required contributions in accordance with section 87A-42 for the benefit of their retirees and beneficiaries.

(b) The board shall determine the annual required contribution owed by each public employer under this part for each fiscal year, beginning with fiscal year 2018-2019.”

SECTION 7. Section 87A-24, Hawaii Revised Statutes, is amended to read as follows:

“§87A-24 Other powers. In addition to the power to administer the fund, the board may:

- (1) Collect, receive, deposit, and withdraw money on behalf of the fund;
- (2) Invest moneys in the same manner specified in section 88-119(1)(A), (1)(B), (1)(C), (2), (3), (4), (5), (6), and (7);
- (3) Hold, purchase, sell, assign, transfer, or dispose of any securities or other investments of the fund, as well as the proceeds of those investments and any money belonging to the fund;
- (4) Appoint, and at pleasure dismiss, an administrator and other fund staff. The administrator and staff shall be exempt from chapter 76 and shall serve under and at the pleasure of the board;
- (5) Make payments of periodic charges and pay for reasonable expenses incurred in carrying out the purposes of the fund;
- (6) Contract for the performance of financial audits of the fund and claims audits of its insurance carriers;
- (7) Retain auditors, actuaries, investment firms and managers, benefit plan consultants, or other professional advisors to carry out the purposes of this chapter[; including the retaining of an actuary to determine the annual required public employer contribution for the separate trust fund established under section 87A-42;
- (8) Establish health benefits plan and long-term care benefits plan rates that include administrative and other expenses necessary to effectuate the purposes of the fund; and
- (9) Require any department, agency, or employee of the State or counties to furnish information to the board to carry out the purposes of this chapter.”

SECTION 8. Section 87A-42, Hawaii Revised Statutes, is amended to read as follows:

“[§87A-42] Other post-employment benefits trust. (a) Notwithstanding sections 87A-31 and 87A-31.5, the board, upon terms and conditions set by the board, ~~[may]~~ shall establish and administer a separate trust fund for the purpose of receiving employer contributions that will prefund other post-employment health and other benefit plan costs for retirees and their beneficiaries. ~~[If a fund is established, it]~~ The separate trust fund shall meet the requirements of the Government Accounting Standards Board regarding other post-employment benefits trusts. The board shall establish and maintain a separate account for each public employer within the separate trust fund to accept and account for each public employer's contributions. Employer contributions to the separate trust fund shall be irrevocable, all assets of the fund shall be dedicated exclusively to providing health and other benefits to retirees and their beneficiaries, and assets of the fund shall not be subject to appropriation for any other purpose and shall not be subject to claims by creditors of the employers or the board or plan administrator. The board's powers under section 87A-24 shall also apply to ~~[any]~~ the fund established pursuant to this section.

(b) Public employer contributions shall be paid into the fund in each fiscal year, and commencing with the 2018-2019 fiscal year, the amount of the annual public employer contribution shall be equal to the amount of the annual required contribution, as determined by an actuary retained by the board.

(c) In any fiscal year subsequent to the 2017-2018 fiscal year in which the state public employer's contributions into the fund are less than the amount of the annual required contribution, the amount that represents the excess of the annual required contribution over the state public employer's contributions shall be deposited into the appropriate account of the separate trust fund from a portion of all general excise tax revenues collected by the department of taxation under section 237-31.

If any general excise tax revenues are deposited into the separate trust fund in any fiscal year as a result of this subsection, the director of finance shall notify the legislature and governor whether the general fund expenditure ceiling for that fiscal year would have been exceeded if those revenues had been legislatively appropriated instead of deposited without appropriation into the trust fund. The notification shall be submitted within thirty days following the end of the applicable fiscal year.

(d) In any fiscal year subsequent to the 2017-2018 fiscal year in which a county public employer's contributions into the fund are less than the amount of the annual required contribution, the amount that represents the excess of the annual required contribution over the county public employer's contributions shall be deposited into the fund from a portion of all transient accommodations tax revenues collected by the department of taxation under section 237D-6.5(b)(3). The director of finance shall deduct the amount necessary to meet the county public employer's annual required contribution from the revenues derived under section 237D-6.5(b)(3) and transfer the amount to the board for deposit into the appropriate account of the separate trust fund.

(e) In any fiscal year subsequent to fiscal year 2017-2018 in which a public employer's contributions into the fund are less than the amount of the annual required contribution and the public employer is not entitled to transient accommodations tax revenues sufficient to satisfy the total amount of the annual required contribution, the public employer's contributions shall be deposited into the fund from portions of any other revenues collected on behalf of the public employer or held by the State. The director of finance shall deduct the amount necessary to meet the public employer's annual required contribution from any revenues collected on behalf of the public employer held by the State

and transfer the amount to the board for deposit into the appropriate account of the separate trust fund.

(f) For the purposes of this section, "annual required contribution" means a public employer's required contribution to the trust fund established in this section that is sufficient to cover:

- (1) The normal cost, which is the cost of other post-employment benefits attributable to the current year of service; and
- (2) An amortization payment, which is a catch-up payment for past service costs to fund the unfunded actuarial accrued liability over the next thirty years."

SECTION 9. Section 237-31, Hawaii Revised Statutes, is amended to read as follows:

"§237-31 Remittances. All remittances of taxes imposed by this chapter shall be made by money, bank draft, check, cashier's check, money order, or certificate of deposit to the office of the department of taxation to which the return was transmitted. The department shall issue its receipts therefor to the taxpayer and shall pay the moneys into the state treasury as a state realization, to be kept and accounted for as provided by law; provided that:

- (1) The sum from all general excise tax revenues realized by the State that represents the difference between \$45,000,000 and the proceeds from the sale of any general obligation bonds authorized for that fiscal year for the purposes of the state educational facilities improvement special fund shall be deposited in the state treasury in each fiscal year to the credit of the state educational facilities improvement special fund;
- (2) A sum, not to exceed \$5,000,000, from all general excise tax revenues realized by the State shall be deposited in the state treasury in each fiscal year to the credit of the compound interest bond reserve fund; ~~and~~
- (3) A sum from all general excise tax revenues realized by the State that is equal to one-half of the total amount of funds appropriated or transferred out of the hurricane reserve trust fund under sections 4 and 5 of Act 62, Session Laws of Hawaii 2011, shall be deposited into the hurricane reserve trust fund in fiscal year 2013-2014 and in fiscal year 2014-2015; provided that the deposit required in each fiscal year shall be made by October 1 of that fiscal year~~[-]; and~~
- (4) Commencing with fiscal year 2018-2019, a sum from all general excise tax revenues realized by the State that represents the difference between the state public employer's annual required contribution for the separate trust fund established under section 87A-42 and the amount of the state public employer's contributions into that trust fund shall be deposited to the credit of the State's annual required contribution into that trust fund in each fiscal year, as provided in section 87A-42."

SECTION 10. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Revenues collected under this chapter, except for revenues collected under section 237D-2(b), shall be distributed as follows, with the excess revenues to be deposited into the general fund:

- (1) 17.3 per cent of the revenues collected under this chapter shall be deposited into the convention center enterprise special fund established under section 201B-8; provided that beginning January 1,

2002, if the amount of the revenue collected under this paragraph exceeds \$33,000,000 in any fiscal year, revenues collected in excess of \$33,000,000 shall be deposited into the general fund;

- (2) 34.2 per cent of the revenues collected under this chapter shall be deposited into the tourism special fund established under section 201B-11 for tourism promotion and visitor industry research; provided that for any period beginning on July 1, 2012, and ending on June 30, 2015, no more than \$71,000,000 per fiscal year shall be deposited into the tourism special fund established under section 201B-11; provided further that beginning on July 1, 2012, and ending on June 30, 2015, \$2,000,000 shall be expended from the tourism special fund for development and implementation of initiatives to take advantage of expanded visa programs and increased travel opportunities for international visitors to Hawaii; and provided further that beginning on July 1, 2002, of the first \$1,000,000 in revenues deposited:

- (A) Ninety per cent shall be deposited into the state parks special fund established in section 184-3.4; and

- (B) Ten per cent shall be deposited into the special land and development fund established in section 171-19 for the Hawaii statewide trail and access program;

provided that of the 34.2 per cent, 0.5 per cent shall be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan 2005-2015; provided further that of the revenues remaining in the tourism special fund after revenues have been deposited as provided in this paragraph and except for any sum authorized by the legislature for expenditure from revenues subject to this paragraph, beginning July 1, 2007, funds shall be deposited into the tourism emergency trust fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency trust fund; and

- (3) 44.8 per cent of the revenues collected under this chapter shall be transferred as follows: Kauai county shall receive 14.5 per cent, Hawaii county shall receive 18.6 per cent, city and county of Honolulu shall receive 44.1 per cent, and Maui county shall receive 22.8 per cent; provided that for any period beginning on July 1, 2011, and ending on June 30, 2015, the total amount transferred to the counties shall not exceed \$93,000,000 per fiscal year[-]; provided that commencing with fiscal year 2018-2019, a sum that represents the difference between a county public employer's annual required contribution for the separate trust fund established under section 87A-42 and the amount of the county public employer's contributions into that trust fund shall be retained by the state director of finance and deposited to the credit of the county public employer's annual required contribution into that trust fund in each fiscal year, as provided in section 87A-42, if the respective county fails to remit the total amount of the county's required annual contributions, as required under section 87A-B.

Revenues collected under section 237D-2(b) shall be deposited into the general fund. All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection.

As used in this subsection, “fiscal year” means the twelve-month period beginning on July 1 of a calendar year and ending on June 30 of the following calendar year.”

SECTION 11. Notwithstanding the amount of a public employer annual required contribution determined in any fiscal year by an actuary retained by the board for this purpose, for the five-year fiscal period from 2014-2015 to 2018-2019, public employer contributions into the separate trust fund established under section 87A-42, Hawaii Revised Statutes, shall be at the specified percentages of the respective annual required contributions, as follows:

<u>Fiscal Year</u>	<u>Annual Required Contribution</u>
(1) 2014-2015	Twenty per cent;
(2) 2015-2016	Forty per cent;
(3) 2016-2017	Sixty per cent;
(4) 2017-2018	Eighty per cent; and
(5) 2018-2019	One hundred per cent.

SECTION 12. Not less than twenty days prior to the convening of the regular session of 2015, the director of finance, in order to maximize the efficient use of resources and public funds, shall submit an implementation plan and any proposed legislation to the legislature to execute the following:

- (1) Joint use of any investment information, advice, and services provided by fund managers retained by the board of trustees of the employees’ retirement system with the board of trustees of the employer-union health benefits trust fund for the purpose of investing moneys contained in the separate trust fund established under section 87A-42, Hawaii Revised Statutes; and
- (2) Procedures to accept and deposit employer contributions from county public employers into the separate trust fund established under section 87A-42, Hawaii Revised Statutes.

SECTION 13. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 for the department of budget and finance to conduct a study and develop an implementation plan to have both the employer-union health benefits trust fund and the employees’ retirement system jointly share investment information and services.

The sums appropriated shall be expended by the department of budget and finance for the purposes of this Act.

SECTION 14. In codifying the new sections added by section 6 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 16. This Act shall take effect on July 1, 2013; provided that the amendments made to section 237D-6.5, Hawaii Revised Statutes, in section 10 of this Act shall not be repealed when section 237D-6.5, Hawaii Revised Statutes, is repealed and reenacted on June 30, 2015, pursuant to Act 61, Session Laws of Hawaii 2009, and Act 103, Session Laws of Hawaii 2011.

(Approved July 3, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 269

H.B. NO. 619

A Bill for an Act Relating to Feral Birds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 322-1, Hawaii Revised Statutes, is amended to read as follows:

“§322-1 Removal, prevention. The department of health and its agents shall examine into all nuisances, foul or noxious odors, gases or vapors, water in which mosquito larvae exist, sources of filth, and all causes of sickness or disease, on shore, and in any vessel, which may be known to them or brought to their attention, which in their opinion are dangerous or injurious to health, and into any and all conditions created or existing which cause or tend to cause sickness or disease or to be dangerous or injurious to health, and shall cause the same to be abated, destroyed, removed, or prevented.

For purposes of this ~~[section,]~~ part, a nuisance shall include ~~[toxic]~~:

- (1) Toxic materials that are used in or by-products of the manufacture or conversion of methamphetamine, and clandestine drug labs that manufacture methamphetamine[-]; and
- (2) Odors and filth resulting from a person feeding feral birds.”

SECTION 2. Section 322-6, Hawaii Revised Statutes, is amended to read as follows:

“§322-6 Who to report nuisances. The sheriff ~~[and]~~, all officers of police, and physicians~~[-]~~ shall report to the department of health, or its nearest authorized agent, the existence of any nuisance injurious to the public health, of which any of them may be cognizant, as soon as possible after it comes to their knowledge. Any individual may report to the department of health, or its nearest authorized agent, the existence of any nuisance injurious to the public health as soon as possible after the individual learns of the existence of the nuisance.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 8, 2013.)

ACT 270

S.B. NO. 1349

A Bill for an Act Relating to Economic Development.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature recognizes the importance of fostering science, technology, engineering, and mathematics education in our public education system from grade school through college and beyond. Each year,

the legislature appropriates significant moneys to fund initiatives that further science, technology, engineering, and mathematics education at all levels of Hawaii's education system. A science, technology, engineering, and mathematics education and a culture of innovation are essential to help grow and diversify Hawaii's economic sectors with new products, services, and processes.

The legislature further finds, however, that each year many Hawaii residents leave the State for careers in science, technology, engineering, and mathematics across the United States and the globe. Many do not want to leave but have no choice as there are too few career opportunities in science, technology, engineering, and mathematics in the State.

The legislature finds that funding science, technology, engineering, and mathematics educational initiatives alone does not ensure jobs in science, technology, engineering, and mathematics for Hawaii's residents. Educational efforts to promote science, technology, engineering, and mathematics must be matched with initiatives that help foster jobs in research and development, which is the core of innovation. Innovative research and development helps spur growth and maintain our technology industry, and is the critical first step in the product development cycle.

Innovation is essential for creating new jobs in the high technology sector, as well as traditional sectors. In recent years, innovation has led to new jobs in sectors as diverse as defense or dual-use, software and information technology, life sciences and biotechnology, and clean energy. At the same time, innovations ripple through the economy, creating jobs for workers building advanced infrastructure (e.g., clean energy solutions), installing broadband networks, and utilizing new devices and products in the service industries, such as healthcare and tourism. Innovation is also critical for sustaining the vitality and resilience of Hawaii's economy.

The legislature finds that, while future challenges are impossible to predict, the State's economy will be able to respond to any challenge by adapting innovative solutions and re-deploying old activities and jobs, thereby making industries in the State less susceptible to adversity.

The legislature further finds that innovation is the key to remaining competitive globally, creating new and better science, technology, engineering, and mathematics jobs for Hawaii's residents, and creating a resilient economy. Support for research and development stimulates the growth of jobs in science, technology, engineering, and mathematics.

The purpose of this Act is to reestablish an income tax credit for qualified research activities in the State of Hawaii that would:

- (1) Provide support for scientific experimentation at twenty per cent of qualified research expenditures;
- (2) Help bridge any funding gap between federal early stage research funding and the critical product development and validation stage; and
- (3) Contribute to the diversification of our economy by creating and maintaining science, technology, engineering, and mathematics jobs in Hawaii.

SECTION 2. Section 235-110.91, Hawaii Revised Statutes, is amended to read as follows:

"§235-110.91 Tax credit for research activities. (a) Section 41 (with respect to the credit for increasing research activities) and section 280C(c) (with respect to certain expenses for which the credit for increasing research activities are allowable) of the Internal Revenue Code shall be operative for the purposes

of this chapter as provided in this section[; except that references to the base amount shall not apply and credit for all qualified research expenses may be taken without regard to the amount of expenses for previous years. If section 41 of the Internal Revenue Code is repealed or terminated prior to January 1, 2011, its provisions shall remain in effect for purposes of the income tax law of the State as modified by this section, as provided for in subsection (j)-]; provided that the federal tax provisions in section 41 of the Internal Revenue Code, as that section was enacted on December 31, 2011, irrespective of any subsequent changes to section 41 of the Internal Revenue Code, shall remain in effect for purposes of determining the state income tax credit under this section; provided further that the federal tax provisions in section 41 of the Internal Revenue Code, as enacted on December 31, 2011, irrespective of any subsequent amendments to section 41 of the Internal Revenue Code, shall apply only to expenses incurred for qualified research activities after December 31, 2012.

(b) All references to Internal Revenue Code sections within sections 41 and 280C(c) of the Internal Revenue Code shall be operative for purposes of this section.

(c) There shall be allowed to each qualified high technology business subject to the tax imposed by this chapter an income tax credit for qualified research activities equal to the credit for research activities provided by section 41 of the Internal Revenue Code and as modified by this section[; provided that, in addition to any other requirements established in this section, in order to qualify for the tax credit established in this section, the qualified high technology business shall also claim a federal tax credit for the same qualified research activities under section 41 of the Internal Revenue Code, as enacted on December 31, 2011, irrespective of any subsequent amendments to section 41 of the Internal Revenue Code. The credit shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

(d) Every qualified high technology business, before March 31 of each year in which qualified research and development activity was conducted in the previous taxable year, shall submit a written, certified statement to the director of taxation identifying:

- (1) Qualified expenditures, if any, expended in the previous taxable year; and
 - (2) The amount of tax credits claimed pursuant to this section, if any, in the previous taxable year.
- (e) The department shall:
- (1) Maintain records of the names and addresses of the taxpayers claiming the credits under this section and the total amount of the qualified research and development activity costs upon which the tax credit is based;
 - (2) Verify the nature of the qualifying research activity and the amount of the qualifying costs or expenditures;
 - (3) Total all qualifying and cumulative costs or expenditures that the department certifies; and
 - (4) Certify the amount of the tax credit for each taxable year and cumulative amount of the tax credit.

Upon each determination made under this subsection, the department shall issue a certificate to the taxpayer verifying information submitted to the department, including the qualifying costs or expenditure amounts, the credit amount certified for each taxable year, and the cumulative amount of the tax credit during the credit period. The taxpayer shall file the certificate with the taxpayer's tax return with the department.

The director of taxation may assess and collect a fee to offset the costs of certifying tax credit claims under this section. All fees collected under this section shall be deposited into the tax administration special fund established under section 235-20.5.

(f) As used in this section:

~~["Basic research" under section 41(e) of the Internal Revenue Code shall not include research conducted outside of the State;]~~

"Qualified high technology business" ~~[means]~~ shall have the same meaning as in section ~~[235-110.9;]~~ 235-7.3(c).

~~"Qualified research" [under section 41(d)(1)] shall have the same meaning as in section 41(d) of the Internal Revenue Code [shall not include research conducted outside of the State].~~

"Qualified research expenses" shall have the same meaning as in section 41(b) of the Internal Revenue Code; provided that it shall not include research expenses incurred outside of the State.

(g) If the tax credit for qualified research activities claimed by a taxpayer exceeds the amount of income tax payment due from the taxpayer, the excess of the tax credit over payments due shall be refunded to the taxpayer; provided that no refund on account of the tax credit allowed by this section shall be made for amounts less than \$1.

(h) All claims for a tax credit under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to properly claim the credit shall constitute a waiver of the right to claim the credit.

(i) A qualified high technology business that claims the credit under this section shall complete and file with the department of business, economic development, and tourism, through that department's website, an annual survey on electronic forms prepared and prescribed by the department of business, economic development, and tourism. The annual survey shall be filed before June 30 of each calendar year following the calendar year in which the credit may be claimed under this section. The department of business, economic development, and tourism may adjust the due date of the annual survey by rules adopted pursuant to chapter 91.

(j) The annual survey under subsection (i) shall include the following information for the time period or periods specified by the department of business, economic development, and tourism:

- (1) Identification of the industry sector or sectors in which the qualified high technology business conducts business, as set forth in paragraphs (2) to (8) of the definition of "qualified research" in section 235-7.3(c);
- (2) Total expenditures and the qualified expenditures, if any, expended in the previous taxable year;
- (3) Revenue and expense data, including a breakdown of any licensing royalty or other forms of income generated from intellectual property;
- (4) Hawaii employment and wage data, including the numbers of full-time and part-time employees retained, new jobs, temporary positions, external services procured by the business, and payroll taxes;
- (5) Filed intellectual property, including invention disclosures, provisional patents, and patents issued or granted; and
- (6) The number of new companies spun out or established to commercialize the intellectual property owned by the qualified high technology business.

The department of business, economic development, and tourism shall request information in each of these categories sufficient to measure the effectiveness of the tax credit under this section. The department of business, economic development, and tourism may request any additional information necessary to measure the effectiveness of the tax credit, such as information related to patents. In preparing the survey and requesting any additional information, the department of business, economic development, and tourism shall ensure that qualified high technology businesses are not subject to duplicative reporting requirements.

(k) The department of business, economic development, and tourism shall use information collected under this section and through its other reporting requirements to prepare summary descriptive statistics by category. The information shall be reported at the aggregate level to prevent compromising identities of qualified high technology business investors or other confidential information. The department of business, economic development, and tourism shall also identify each qualified high technology business that is the beneficiary of tax credits claimed under this section. The department of business, economic development, and tourism shall report the information required under this subsection to the legislature by September 1 of each year.

(l) The department of business, economic development, and tourism, in collaboration with the department of taxation, shall use the information collected to study the effectiveness of the tax credit under this section. The department of business, economic development, and tourism shall submit a report to the legislature on the following:

- (1) The amount of tax credits claimed and total taxes paid by qualified high technology businesses;
- (2) The number of qualified high technology businesses in each industry sector;
- (3) The numbers and types of jobs created by qualified high technology businesses;
- (4) External services and materials procured by the businesses;
- (5) The compensation levels of jobs provided by qualified high technology businesses;
- (6) Qualified research activities; and
- (7) Any other factors the department of business, economic development, and tourism deems relevant.

The department of business, economic development, and tourism shall submit the report to the legislature by September 1 of each year.

[(h)] (m) The director of taxation may adopt any rules under chapter 91 and forms necessary to carry out this section.

[(j)] (n) This section shall not apply to taxable years beginning after December 31, [2010-] 2019.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2013, and shall apply to taxable years beginning after December 31, 2012.

(Approved July 9, 2013.)

A Bill for an Act Relating to the Hawaii Health Systems Corporation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the State faces a severe shortage of healthcare providers. This situation is particularly acute in primary care, where most of the prevention, early intervention, and healthcare cost savings occur.

The legislature further finds that the Hawaii health systems corporation primary care training program is an effective way to reduce the impact of the shortage of primary care providers and improve access to healthcare throughout the State. Administered by Hilo medical center in coordination with the Hawaii health systems corporation regions, this interdisciplinary program includes: the Hawaii island family medicine residency program; training for advanced practice nurses from the school of nursing and dental hygiene at the University of Hawaii at Manoa and the school of nursing at the University of Hawaii at Hilo; clinical pharmacists from the University of Hawaii at Hilo's college of pharmacy; and post-doctoral fellows from I Ola Lahui, an organization that trains psychologists to meet the needs of residents of rural areas.

The success of this training model, which will be expanded to other neighbor island health facilities, will generate interdisciplinary teams capable of caring for four times as many patients as independent practicing physicians. Hawaii will benefit greatly as the Hawaii health systems corporation regions' program will eliminate the need to train or attract unattainably high numbers of physicians.

The purpose of this Act is to address the shortage of primary care providers in the State by appropriating funds for the interdisciplinary Hawaii health systems corporation primary care training program at Hilo medical center.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,800,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the interdisciplinary Hawaii health systems corporation primary care training program at Hilo medical center.

The sum appropriated shall be expended by the Hawaii health systems corporation for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved July 9, 2013.)

A Bill for an Act Relating to Higher Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Pursuant to Senate Concurrent Resolution No. 156, S.D. 1, adopted during the regular session of 2012, the legislature urged the creation of an exploratory committee to consider the feasibility of, and necessary resources for, establishing an international aviation training center at the Hilo international airport and an advanced aviation degree training program at the University of Hawaii at Hilo. Tasked with submitting a report to the legislature,

the exploratory committee recommended the establishment of three programs and the appropriation of funds by the legislature to hire a program coordinator and a technical support staff member, contracted through the University of Hawaii, who will conduct and draft the necessary planning and studies required for the proposed programs. The proposed professional helicopter pilot program and the proposed professional unmanned aircraft systems pilot program are to be administered through Hawaii community college. The proposed professional airplane pilot program is to be administered by the University of Hawaii at Hilo.

The program coordinator and technical support staff member will work in conjunction with the chancellors of Hawaii community college and the University of Hawaii at Hilo, the exploratory committee, and the state aviation community to complete the necessary studies and planning for the programs' future implementation.

Accordingly, the purpose of this Act is to appropriate funds for the program coordinator and technical support staff member, as recommended by the exploratory committee.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2013-2014 for a program coordinator and a technical support staff member to complete the necessary planning and studies required for an international flight training center and associated proposed aeronautical training programs at Hawaii community college and the University of Hawaii at Hilo.

The sum appropriated shall be expended by the University of Hawaii for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2013.

(Approved July 9, 2013.)

ACT 273

S.B. NO. 1256

A Bill for an Act Relating to the Pacific International Space Center for Exploration Systems.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that for the last fifty years the State of Hawaii has partnered with the National Aeronautics and Space Administration to develop and advance the national space program, beginning with the astronaut training program for the Apollo lunar missions and including a broad range of discoveries in astronomy and planetary geosciences, satellite communications, space-based environmental monitoring, deep-space surveillance, and other activities, which have established the United States as a global leader in space exploration.

The legislature further finds that the State entered into an agreement with the National Aeronautics and Space Administration to expand the State's role as a contributor to, and beneficiary of, the national space enterprise. The agreement will enable the State to leverage strategic assets and capabilities for space exploration, including the State's unique geographical features, which resemble lunar and Martian terrain, resident expertise in space science and technology, and extensive research partnerships with other space programs throughout the Asia-Pacific region.

The Pacific international space center for exploration systems was statutorily established by the legislature in Act 169, Session Laws of Hawaii 2012, to provide unique opportunities to expand and diversify technology-based enterprises and education statewide and to advance the national space program by leveraging Hawaii's substantial assets and capabilities in space exploration.

One goal for the Pacific international space center for exploration systems is to develop a world-class center of excellence in Hawaii that can facilitate the design, testing, and validation of new technologies to support robotic and human missions to space. Another goal is to serve as an economic driver for the island of Hawaii that will promote the establishment and growth of new sustainable and green industries along with associated jobs, workforce development, internships, and science, technology, engineering, and math education programs.

The legislature further finds that the Pacific international space center for exploration systems has a unique opportunity to facilitate and accelerate the development of aerospace surface-system technologies by exploiting Earth-based commercial applications in the State. The preliminary focus for this program should be in the research of a sustainable concrete supply, robotic operator training and certification, and the attraction of companies to presently unpopulated business sectors in Hawaii.

For the study and development of a sustainable concrete supply, the legislature recognizes that current market demands for concrete in Hawaii are primarily met through imported cement and asphalt. Research and development that enables innovative technologies for basalt concrete composition and delivery is an attractive and self-sustaining alternative to continued cement and bitumen imports. Currently, the Pacific international space center for exploration systems is working with the International Space Exploration Research Institute of Hanyang University in South Korea; the National Aeronautics and Space Administration, including the Kennedy Space Center, the Ames Research Center, and the Johnson Space Center; the University of Notre Dame; the University of Hawaii at Manoa; the University of Hawaii at Hilo; the American Society of Civil Engineers; and local industries to identify, verify, and validate sustainable and in-situ concrete binders using the existing basalt resources in the State. This is a critical step toward realizing Hawaii's potential in this industry and provides an investment in the future of Hawaii and its economy by offering a self-sufficient and in-situ source of concrete for local applications.

The legislature further finds that with an increasing technological availability of robotics for emergency response and hazard mitigation, there is an emerging need for robotics training and certification for civil and government robotic operators. The Pacific international space center for exploration systems is working with the Northern Center for Advanced Technology in Canada to develop a robotic operator training and certification program, and will be collaborating with the University of Hawaii community colleges on course facilitation and development. Additionally, the Pacific international space center for exploration systems is exploring opportunities with the Northern Center for Advanced Technology in underwater robotics.

The legislature further finds that the recent emergence of private commercial space access and a resurgence of global space initiatives will involve significant private sector investment in the development, testing, validation, and verification of robotics, broadband, energy production, energy storage, recycling, and renewable and sustainable technologies that can have immediate application to improve the economy and the general well-being of the State. The legislature also recognizes the need to formulate partnerships with private industry to facilitate state-based manufacturing and operations in conjunction with the associated local workforce development. The Pacific international space

center for exploration systems is exploring possible partnerships with Planetary Power, which produces solar and hybrid energy generation and storage systems, to establish a Pacific base of operations in Hawaii to facilitate the manufacturing of specific components for fixed and mobile solar concentrator units that will offer higher efficiency than photovoltaic systems, as well as hybrid biodiesel systems.

The Pacific international space center for exploration systems is also working to establish a memorandum of understanding with Hawaii Techworks and the east Hawaii community development corporation to ensure that there is a skilled local workforce in place to support these manufacturing operations.

The legislature further finds that all of these initiatives align with current demands in the State, as well as President Obama's Advanced Manufacturing Partnership, and represent critical components for a stronger economy in the State.

The purpose of this Act, therefore, is to appropriate funds to provide funding for the Pacific international space center for exploration systems to manage and facilitate its work in bringing aerospace technology and corporations to Hawaii, to expand and diversify Hawaii-based industry, and to provide the training relevant to prepare Hawaii's workforce for employment in technology-related fields, and to require the Pacific international space center for exploration systems to report to the legislature on its activities.

Moneys appropriated through this Act will be used to fund:

- (1) Existing employee salaries and the creation of new positions, including a marketing officer, a project integration manager, an information-technology field technician, and two student internships;
- (2) Operational expenses, including the rental of staff offices and warehouse space for Pacific international space center for exploration systems hardware and equipment; utilities; intrastate and interstate travel to meetings and conferences; marketing costs associated with website creation, graphic design, and the development of brochures and trade advertising; travel and lodging expenses for the Pacific international space center for exploration systems board of directors; and the Pacific international space center for exploration systems conferencing contracts; and
- (3) The purchase of essential equipment, materials, and services, including electronic test and design equipment in support of robotics training and education; mechanical equipment in support of robotics training, the sustainable concrete project, advanced manufacturing skills training, and ongoing testing of robotic surface systems by the Pacific international space center for exploration systems; command and control equipment for new and existing robotics hardware; situational awareness monitoring for robotic operations training; software licensing; and a data server for archiving project results, product designs, and online training materials for a robotics operator training course.

SECTION 2. Chapter 201, Hawaii Revised Statutes, is amended by adding a new section to part V, subpart B to be appropriately designated and to read as follows:

"§201- Pacific international space center for exploration systems; reporting requirement. The Pacific international space center for exploration systems shall submit, no later than September 1 of each year, an annual report to the legislature that includes:

- (1) An updated business plan regarding the aerospace technology research and development park project;
- (2) Details on any progress made toward the development of a world-class space center in Hawaii;
- (3) The development of technologies and any concomitant effect on the level of resource imports into the State;
- (4) The status of all working relationships with educational and research institutions and federal agencies;
- (5) Details on any progress made toward the development of a robotic operator training and certification program;
- (6) The level of private sector investment in aerospace and related industries, including the number and nature of any partnerships with private industry to facilitate state-based manufacturing and operations related to green energy technology;
- (7) The status of the memorandum of understanding with Hawaii Techworks and the east Hawaii community development corporation regarding the cultivation of a skilled local workforce to support planned manufacturing operations; and
- (8) A detailed statement of assets, liabilities, revenues, and expenses for each fiscal year ending June 30.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$400,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the Pacific international space center for exploration systems for personnel costs, operational expenses, and the purchase of equipment, materials, and services.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on July 1, 2013.

(Approved July 9, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 274

H.B. NO. 858

A Bill for an Act Relating to the HI Growth Initiative.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the State has a public interest in diversifying our economy and promoting the development of high-growth, entrepreneurial businesses. Job creation is at the top of every state’s policy agenda. Recent reports from the National Governors Association have highlighted the importance of focusing on fostering an entrepreneurial environment and supporting high-growth businesses as a proven approach to creating high-wage jobs.

Successful economic development outcomes in other states have demonstrated the effectiveness of a comprehensive state-level program that can engage an entrepreneurial ecosystem to support the continuum of entrepreneurial-

ism, commercialization, and business formation capabilities needed to foster high-growth businesses. This comprehensive program must have the input and support from the key stakeholders in the entrepreneurial ecosystem: private industry, investors, the universities, and government. Finally, this comprehensive program must have sufficient resources to provide the pace and scale of investment needed to make the program transformative.

This Act provides a \$6,000,000 appropriation to the Hawaii strategic development corporation to implement an investment program, the HI growth initiative, that will be used to catalyze and leverage key entrepreneurial initiatives that private industry and the University of Hawaii are pursuing independently.

This program builds on the Hawaii strategic development corporation's previous experience managing the State's venture capital investment program, the follow-on funding program, the venture accelerator funding program funded by the legislature in the previous fiscal year (Act 170, Session Laws of Hawaii 2012) and the venture fund of funds investment program funded by the United States Department of the Treasury's State Small Business Credit Initiative.

The financing resources provided by this Act will allow the Hawaii strategic development corporation to implement initiatives structured to mobilize and attract entrepreneurial talent and private capital to Hawaii's high-growth business opportunities. This will allow the State to leverage and benefit from the resources and business acumen of the private sector.

There are three important objectives of the HI growth initiative:

- (1) Support the establishment of an entrepreneurial ecosystem that will provide mentoring, collaboration, and funding opportunities for Hawaii entrepreneurs to establish and scale their business ventures;
- (2) Actively partner research commercialization activities with state and private-industry programs to establish high-growth businesses; and
- (3) Network Hawaii's high-growth businesses into the broader universe of mainland and international investment funds active in the sectors important to Hawaii.

In this way, Hawaii entrepreneurs will be able to commercialize their intellectual property, access business mentors and customers to start their businesses, network with global investors to benefit from the domain expertise of experienced investors, and gain access to follow-on capital for expansion.

The purpose of this Act is to provide the funding and coordination necessary to implement the recommendations of the governor's New Day Plan to reinvigorate state efforts to fuel an innovation economy and advance research innovation and commercialization. These recommendations are supported by the final report from the University of Hawaii's innovation council and by an overview of Hawaii's innovation economy by the high technology development corporation.

SECTION 2. Chapter 211F, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§211F- HI growth initiative; report to legislature. The corporation shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2014 and annually thereafter on the specific annual outcome achieved through the activities and expenditures of the HI growth initiative."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$6,000,000 or so much thereof as may be necessary for

fiscal year 2013-2014 for an investment program to develop and strengthen the core capabilities of entrepreneurialism, commercialization, and business formation in order for Hawaii to develop globally competitive high-growth companies.

The sum appropriated shall be paid into the Hawaii strategic development corporation revolving fund created under section 211F-5, Hawaii Revised Statutes.

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act, upon its approval, shall take effect on July 1, 2013.

(Approved July 9, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 275

H.B. NO. 1396

A Bill for an Act Relating to the Japanese American Experience in Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that a Nisei Veterans Legacy Center would preserve, perpetuate, and share the legacy of the Americans of Japanese ancestry who served in the United States armed forces in World War II. Such a center would provide research and educational programs, outreach efforts, and displays for residents and visitors. The establishment of a Nisei Veterans Legacy Center would create a facility dedicated to researching, preserving, and interpreting the history of the 100th Infantry Battalion, 442nd Regimental Combat Team, Military Intelligence Service, and the 1399th Engineer Construction Battalion to develop deeper understandings of their unique place in Hawaiian, American, and global history.

A Nisei Veterans Legacy Center would curate materials and artifacts to preserve and perpetuate the legacy of the Nisei soldiers of World War II who fought loyally and valiantly against the Axis powers on the European and Pacific battlefields, while having to combat distrust, racial prejudice, and discrimination at home. A Nisei Veterans Legacy Center would examine race, loyalty, citizenship, and "Americanism" against the backdrop of martial law, internment, and the fragility of civil liberties and civil rights during that era, and demonstrate how the Nisei soldiers' battlefield experiences and sacrifices contributed to political leadership, social movements, and social transformation in Hawaii and the United States.

Locating a Nisei Veterans Legacy Center in West Oahu would complement academic and research programs offered at the University of Hawaii, such as the Center for Labor Education and Research's Labor Archives and the Henry Giugni film collection.

The purpose of this Act is to make appropriations for the planning and design of a center in West Oahu that would incorporate a Nisei Veterans Legacy Center. The legislature intends for a matching source of private or public funds to be secured prior to the release of the appropriations.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2013-2014 for the planning and design of a Nisei Veterans Legacy Center.

The sum appropriated shall be expended by the University of Hawaii at West Oahu for the purposes of this Act; provided that no moneys shall be expended unless matched by grants or donations from public or private sources.

For the purposes of this Act, the value of in-kind donations from private sources may be included for the purpose of calculating the amount of matching funds.

SECTION 3. The University of Hawaii at West Oahu shall report to the legislature no later than twenty days prior to the convening of the regular session of 2014 on the status of the Nisei Veterans Legacy Center, which shall include a report on the status of grants or donations from public or private sources.

SECTION 4. This Act shall take effect on July 1, 2013.

(Approved July 9, 2013.)

ACT 276

S.B. NO. 407

A Bill for an Act Relating to Island Burial Councils.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the statute providing for the establishment of the island burial councils needs to be clarified and simplified to ensure that the island burial councils can fulfill their critical responsibilities.

SECTION 2. Section 6E-43.5, Hawaii Revised Statutes, is amended to read as follows:

“§6E-43.5 Island burial councils; creation; appointment; composition; duties. (a) ~~[The department shall establish]~~ There are established within the department five island burial councils, one each for [Hawaii, Maui/Lanai, Molokai, Oahu, and Kauai/Niihau.] Hawai‘i, Maui/Lāna‘i, Moloka‘i, O‘ahu, and Kaua‘i/Ni‘ihau, to implement section 6E-43. Each council shall consist of nine members, except the Moloka‘i council, which shall consist of five members. Each council shall consist of no more than three representatives of development and large landowner interests; provided that the Moloka‘i council shall consist of no more than one representative of development and large landowner interests. The remaining council members shall represent the geographic regions identified in paragraphs (1) through (5). At all times, at least two of the regional representatives of each council shall have been appointed from a list of nominees submitted to the governor by the office of Hawaiian affairs, as provided under subsection (b). Each council shall include at least one representative for each geographic region identified as follows:

- (1) The Hawai‘i council shall include the following geographic regions: Kohala, Kona, Ka‘ū, Puna, Hilo, and Hāmākua;
- (2) The Maui/Lāna‘i council shall include the following geographic regions: Honua‘ula, Lahaina, Wailuku, Makawao, Hāna, and Lāna‘i;
- (3) The Moloka‘i council shall include the following geographic regions: West Moloka‘i, Central Moloka‘i, East Moloka‘i, and Kalawao;

- (4) The O'ahu council shall include the following geographic regions: Wai'ānae, 'Ewa, Kona, Ko'olaupoko, Ko'olauloa, and Waialua; and
- (5) The Kaua'i/Ni'ihau council shall include the following geographic regions: Waimea/Na Pali, Kōloa, Līhu'e, Kawaihau, Hanalei, and Ni'ihau.

Regional representatives shall be selected from the Hawaiian community on the basis of the representatives' understanding of the culture, history, burial beliefs, customs, and practices of native Hawaiians in the region they each represent.

(b) Appointment of members to the councils shall be made by the governor, in accordance with section 26-34[,] and subsection (a), from [a list provided] lists for each council submitted by the department[, provided that a minimum of twenty per cent of the regional representatives shall be appointed from a list of at least nine candidates provided by the office of Hawaiian affairs. The department shall develop the list in consultation with appropriate Hawaiian organizations, such as Hui Malama I Na Kupuna O Hawai'i Nei. The membership of each council shall include at least one representative from each geographic region of the island as well as representatives of development and large property owner interests. Regional representatives shall be selected from the Hawaiian community on the basis of their understanding of the culture, history, burial beliefs, customs, and practices of native Hawaiians. The councils shall have a minimum of nine and a maximum of fifteen members, and have a ratio of not more than three to one and no less than two to one in favor of regional representatives.] and the office of Hawaiian affairs. Lists to fill vacancies on the councils shall be submitted as follows:

- (1) For vacancies attributable to the expiration of terms, the list shall be submitted on the first business day of December prior to the expiration of the terms, except as provided in subsection (c); and
- (2) For a vacancy that occurs during a council representative's term, the list shall be submitted within thirty business days after the vacancy occurs, except as provided in subsection (c).

(c) The department may submit any list to fill a vacancy up to fifteen days after the office of Hawaiian affairs submits its list for the same vacancy; provided that the failure of the department to submit any list by any relevant deadline or fifteen days after the office of Hawaiian affairs submits its list, which ever occurs later, shall be construed as a waiver of the department's right to submit a list.

[(e)] (d) The department, in consultation with the councils, office of Hawaiian affairs, representatives of development and large [property owner] landowner interests, and appropriate Hawaiian organizations, such as Hui Malama I Na Kupuna O Hawai'i Nei, shall adopt rules pursuant to chapter 91 necessary to carry out the purposes of this section. The council members shall serve without compensation, but shall be reimbursed for necessary expenses incurred during the performance of their duties. The councils shall be a part of the department for administrative purposes.

[(d)] (e) The councils shall hold meetings and acquire information as they deem necessary, and shall communicate their findings and recommendations to the department. Notwithstanding section 92-3, whenever the location and description of burial sites are under consideration, the councils may hold closed meetings. A majority of all members to which each council is entitled shall constitute a quorum to do business. Concurrence of a majority of the members present at a meeting shall be necessary to make any action of a council valid.

[(e)] (f) Department records relating to the location and description of historic sites, including burial sites, if deemed sensitive by a council or the [Hawaii] Hawai'i historic places review board, shall be confidential.

[(f)] (g) The councils shall:

- (1) Determine the preservation or relocation of previously identified native Hawaiian burial sites;
- (2) Assist the department in the inventory and identification of native Hawaiian burial sites;
- (3) Make recommendations regarding appropriate management, treatment, and protection of native Hawaiian burial sites, and on any other matters relating to native Hawaiian burial sites;
- (4) Elect a chairperson for a four-year term who shall serve for not more than two consecutive terms; and
- (5) Maintain a list of appropriate Hawaiian organizations, agencies, and offices to notify regarding the discovery of remains.”

SECTION 3. Notwithstanding the amendments made by this Act to section 6E-43.5, Hawaii Revised Statutes, each current sitting council member may serve the remainder of the member's term, and the decisions and other actions of each holdover member's council shall not be subject to challenge on the basis that the requirement in section 6E-43.5(a), Hawaii Revised Statutes, that each council include a member who represents each geographic region of the council, has not been met.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 9, 2013.)

ACT 277

H.B. NO. 424

A Bill for an Act Relating to Timeshare Conveyances.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER TIME SHARE COMMISSIONERS OF DEEDS

§ -1 **Commissioners; appointment.** The governor may appoint commissioners who shall serve for four years from the date of the individual commissioner's respective appointment, unless removed by the governor.

§ -2 **Oath and seal.** (a) Within three months of appointment, a commissioner shall:

- (1) Cause an official seal to be prepared, upon which seal shall appear the commissioner's name and the words “commissioner of deeds for Hawaii”; and
- (2) Take and subscribe an oath to faithfully perform the duties of the commissioner's office; provided that the oath shall be taken before:

- (A) A notary public in the State or any other state;
- (B) Any officer of the United States diplomatic or consular service resident in any foreign country or port, when certified by the officer under the officer's seal of office; or
- (C) Any person authorized by the law of any foreign country to take an acknowledgement or proof; provided that the acknowledgement or proof shall be accompanied by a certificate to the effect that the person taking the acknowledgement or proof is duly authorized to do so and that the acknowledgement or proof is in a manner prescribed by the laws of the foreign country or a treaty or international agreement of the United States; provided further that a certificate under this subparagraph may be issued by:
 - (i) A diplomatic or consular officer of the United States under the seal of the officer's office;
 - (ii) A diplomatic or consular officer of the foreign country under the seal of the officer's office with the signature or facsimile of the signature of the diplomatic or consular officer of the United States; or
 - (iii) An apostille in the case of a foreign country that is party to the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents.

(b) A commissioner's oath of office, the commissioner's signature, and an impression of the commissioner's seal shall be transmitted to and filed with the office of the lieutenant governor.

(c) For purposes of this section, a diplomatic or consular officer includes any minister, consul, vice consul, charge d'affaires, consular or commercial agent, or a vice consular or vice commercial agent.

§ -3 Powers; charges. A commissioner, in any foreign country; in international waters; and in any possession, territory, or commonwealth of the United States, may administer oaths and take acknowledgements and proofs of execution of any deed, assignment of lease, apartment deed and ground lease, condominium conveyance document, mortgage, deed of trust, contract, power of attorney, or any other instrument or writing to be used or recorded in the State in connection with:

- (1) A time share interest;
- (2) Any property subject to a time share plan; or
- (3) The operation of a time share plan that includes any property located within the State;

provided that the instrument or writing is executed outside of the fifty states and the District of Columbia. Oaths, acknowledgements, and proofs of execution shall be taken or made in the manner provided by the laws of the State, including but not limited to sections 502-42, 502-43, 502-48, 502-61, 502-62, and 502-63, and shall be certified by the commissioner under the commissioner's official seal. The certification shall be endorsed on or attached to the instrument or writing and shall have the same effect as if made or taken in the State by a notary public commissioned in the State. Charges made by commissioners for services rendered shall be no higher than the rates authorized by any law governing similar services rendered by notaries within the jurisdictions in which the services are performed.

§ -4 **Records.** Each commissioner shall keep a record of every acknowledgement, oath, and proof of execution in a book of records. Each record shall set forth, at a minimum, the date of the acknowledgement, the parties to the instrument, the persons making the acknowledgements, and a memorandum as to the nature of the instrument acknowledged. For oaths and affidavits, the record shall set forth, at a minimum, the names of the parties making the oath or affidavit, the date of the oath or affidavit, the nature of the instrument, and the date the oath was administered.

§ -5 **Instructions.** The lieutenant governor shall prepare and forward to each commissioner instructions and forms in conformity with law and a copy of this chapter.

§ -6 **Construction of statutes.** This chapter shall not be construed as repealing or amending chapter 502.

§ -7 **Notice of legal effect.** (a) A commissioner shall provide to each person whose signature is witnessed or acknowledged by the commissioner a written notice in substantially the following form:

“LEGAL EFFECT OF CERTIFICATION BY A COMMISSIONER OF DEEDS

A certification by a Hawaii commissioner of deeds is intended only to confirm that a document was signed by a person whose signature appears on it. It does not validate the substance, contents, or legal effect of the document, nor indicate that the document has been approved or endorsed by any governmental authority, including the State of Hawaii. The documents that you are signing may have legal consequences, and you may have rights under Hawaii law. By signing below, you acknowledge that you have read and understand this.”

(b) If the person whose signature is witnessed or acknowledged by the commissioner does not speak English, a translation of the notice required by subsection (a) shall be provided to the person in the predominant language spoken in the country in which the execution or acknowledgement takes place; provided that:

- (1) The content of the notice may be varied as necessary to convey the intended concepts in the other language; and
- (2) Neither the commissioner nor any other person shall be liable for errors in translation of the notice required by subsection (a) so long as a good faith effort to accurately translate the notice was made.

(c) A commissioner of deeds shall retain, for three calendar years from the date upon which the notice was executed, the original executed notice or a copy made by any means capable of providing an accurate reproduction of the executed notice.

(d) Failure to provide the notice required by subsection (a) shall subject the commissioner of deeds to a penalty in an amount to be established by the lieutenant governor by rule adopted pursuant to chapter 91 but shall not render any agreement void or voidable, nor shall it constitute a defense to any action to enforce the agreement or any action for breach of the agreement by any party to the agreement.

§ -8 **Bond.** (a) Each commissioner forthwith and before entering upon the duties of the commissioner's office shall execute at the commissioner's own expense an official surety bond or deposit with the lieutenant governor a cash bond, which in either case shall be in the sum of \$1,000. Each bond shall be approved by the office of the lieutenant governor.

(b) The obligee of each bond shall be the State and the condition contained therein shall be that the commissioner will well, truly, and faithfully perform all the duties of the commissioner's office that are then or may thereafter be required, prescribed, or defined by law or by any rule made under the express or implied authority of any statute, and all duties and acts undertaken, assumed, or performed by the commissioner by virtue or color of the commissioner's office. The surety on any surety bond shall be a surety company authorized to do business in the State. After approval, the bond shall be deposited and kept on file in the office of the lieutenant governor. The lieutenant governor shall keep a book to be called the "bond record", in which the lieutenant governor shall record the data in respect to each of the bonds deposited and filed in the lieutenant governor's office.

(c) A commissioner who files a cash bond may cancel the bond by giving thirty days notice in writing to the lieutenant governor; provided that the security for the bond shall not be returned for a period of six years after the effective date of cancellation of the bond or upon posting a surety bond meeting the requirements set forth in this section, whichever shall occur first.

§ -9 Liabilities; limitations on; official bond. (a) In the performance of a commissioned act, a commissioner's liability shall be limited to a failure by the commissioner to perform properly the actions required for oaths, acknowledgements, and proofs of execution. The commissioner's liability shall not be based on statements in a document apart from the commissioner's certificate.

(b) For the official misconduct or neglect of a commissioner or breach of any of the conditions of the commissioner's official bond, the commissioner and the surety on the commissioner's official bond shall be liable to the party injured thereby for all the damages sustained. The party shall have a right of action in the party's own name upon the bond and may prosecute the action to final judgment and execution. The liability of the surety shall not exceed the amount of the bond issued to the commissioner of deeds for whom the bond was issued."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$60,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 for expenses incurred by the office of the lieutenant governor related to establishing and administering the commissioners of deeds program.

The sums appropriated shall be expended by the office of the lieutenant governor for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 2013; provided that the governor shall appoint commissioners pursuant to section 1 of this Act no later than July 1, 2014.

(Became law on July 9, 2013, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

ACT 278

H.B. NO. 1130

A Bill for an Act Relating to the Hawaii Health Systems Corporation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii health systems corporation, the fourth largest public hospital system in the nation, operates public health care facilities that

provide essential safety-net hospital and long-term care services throughout the State. The legislature finds that changes in the health care industry and implementation of national health care reform necessitate that the Hawaii health systems corporation board of directors have the necessary flexibility and autonomy needed for community hospitals to compete and remain viable.

The Hawaii health systems corporation board currently includes five regional chief executive officers who serve as ex-officio, voting members. The regional chief executive officers have been instrumental in bringing additional expertise to the board during its time of transition from a single corporation board to a multi-level board. In light of the successful establishment of the regional system boards, the significant challenges imposed by an ever-changing and complex health care environment, the time required to serve on the Hawaii health systems corporation board, and the desire for additional community participation, the legislature finds it appropriate to shift the voting powers of the five regional chief executive officers on the board to the community members from each of the regional systems. The regional chief executive officers will continue to participate in the Hawaii health systems corporation's board meetings, along with the Hawaii health systems corporation president and chief executive officer.

The legislature finds that the statewide nature and function of the Hawaii health systems corporation are essential for coordination of decisions and are necessary to provide a centralized system of operations, budgeting, and planning for public healthcare in the State. As a statewide governing entity, the Hawaii health systems corporation is able to make decisions from a statewide perspective to minimize costs and maximize efficiencies in healthcare provision through economies of scale. The Hawaii health systems corporation's role and function ensure coordination and consolidation of services among public hospitals in areas such as facilities management, capital planning, purchasing, personnel, and public-private partnerships for the needs of communities statewide.

The purpose of this Act is to improve accountability in the health care system, support clear and consistent roles for all regional systems, and create a more balanced multi-board tiered system by shifting the voting powers of the five regional chief executive officers on the Hawaii health systems corporation board of directors to community members who are appointed by the governor.

SECTION 2. Section 323F-3, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) The corporation shall be governed by ~~[a thirteen-member]~~ an eighteen-member board of directors that shall carry out the duties and responsibilities of the corporation other than those duties and responsibilities relating to the establishment of any captive insurance company pursuant to section 323F-7(c)(20) and the operation thereof.

(b) The members of the corporation board shall be appointed as follows:

- (1) The director of health as an ex-officio, voting member;
- (2) The five regional chief executive officers as ex-officio, ~~[voting]~~ non-voting members;
- (3) ~~[Two]~~ Three members who reside in the county of Maui ~~[who]~~, two of whom shall be appointed by the Maui regional system board[;] and one of whom shall be appointed by the governor, all of whom shall serve as voting members;
- (4) ~~[One member]~~ Two members who ~~[resides]~~ reside in the eastern section of the county of Hawaii ~~[who]~~, one of whom shall be appointed by the East Hawaii regional system board[;] and one of whom shall

- be appointed by the governor, both of whom shall serve as voting members;
- (5) [One member] Two members who [resides] reside in the western section of the county of Hawaii [who], one of whom shall be appointed by the West Hawaii regional system board~~;~~ and one of whom shall be appointed by the governor, both of whom shall serve as voting members;
 - (6) [One member] Two members who [resides] reside on the island of Kauai [who], one of whom shall be appointed by the Kauai regional system board~~;~~ and one of whom shall be appointed by the governor, both of whom shall serve as voting members;
 - (7) [One member] Two members who [resides] reside on the island of Oahu [who], one of whom shall be appointed by the Oahu regional system board~~;~~ and one of whom shall be appointed by the governor, both of whom shall serve as voting members; and
 - (8) One member who shall be appointed by the governor and serve as an at-large voting member.

The appointed board members who reside in the county of Maui, eastern section of the county of Hawaii, western section of the county of Hawaii, on the island of Kauai, and on the island of Oahu shall each serve for a term of four years; provided that the terms of the initial appointments of the members who are appointed by their respective regional system boards shall be as follows: one of the initial members from the county of Maui shall be appointed to serve a term of two years and the other member shall be appointed to serve a term of four years; the initial member from East Hawaii shall be appointed to serve a term of two years; the initial member from West Hawaii shall be appointed to serve a term of four years; the initial member from the island of Kauai shall be appointed to serve a term of two years; and the initial member from the island of Oahu shall be appointed to serve a term of four years~~;~~ and provided further that the terms of the initial appointments of the members who are appointed by the governor shall be four years. The at-large member appointed by the governor shall serve a term of two years.

Any vacancy shall be filled in the same manner provided for the original appointments. The corporation board shall elect its own chair from among its members. Appointments to the corporation board shall be as representative as possible of the system's stakeholders as outlined in this subsection. The board member appointments shall strive to create a board that includes expertise in the fields of medicine, finance, health care administration, government affairs, human resources, and law."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Became law on July 9, 2013, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

ACT 279

H.B. NO. 1059

A Bill for an Act Relating to Court Advisement Concerning Alien Status.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 802E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§802E- Court advisement concerning alien status required at the commencement of arraignment and plea hearing. At the commencement of the court session for arraignment and plea hearings for an offense punishable as a crime under state law, except offenses designated as infractions under state law, the court shall administer the following advisement on the record to all defendants present:

If you are not a citizen of the United States, whether or not you have lawful immigration status, your case may have severe and irreversible consequences, including immediate detention, deportation, or exclusion from admission or denial of naturalization to the United States. Your attorney must advise you regarding the possible consequences this case may have on your immigration status. You are not required to disclose your immigration or citizenship status to the court.”

SECTION 2. Section 802E-2, Hawaii Revised Statutes, is amended to read as follows:

“[§802E-2] Court advisement concerning alien status required[.] prior to the commencement of trial, entry of a plea of guilty or nolo contendere, or admission of guilt or sufficient facts. Prior to [acceptance] the commencement of trial, entry of a plea of guilty or nolo contendere, or admission of guilt or sufficient facts to any offense punishable as a crime under state law, except offenses designated as infractions under state law, the court shall administer the following advisement on the record to the defendant:

[If you are not a citizen of the United States, you are hereby advised that conviction of the offense for which you have been charged may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.] If you are not a citizen of the United States, whether or not you have lawful immigration status, you have the right to receive advice from your attorney about the specific impact that this case will have, if any, on your immigration status. The entry of a guilty or nolo contendere plea, admission of guilt or sufficient facts, or conviction, deferred judgment, or deferred sentence may have the consequences of your immediate detention, deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. In some cases, detention and deportation from the United States will be required. Your lawyer must investigate and advise you about these issues prior to the commencement of trial, entry of a guilty or nolo contendere, or admission of guilt or sufficient facts to any offense punishable as a crime under state law, other than those offenses designated as infractions. You are not required to disclose your immigration or citizenship status to the court.

Upon request, the court shall allow the defendant additional time to consider the appropriateness of the plea in light of the advisement as described in this section.”

SECTION 3. Section 802E-3, Hawaii Revised Statutes, is amended to read as follows:

“[§802E-3] Failure to advise; vacation of judgment. If the court fails to advise the defendant as required by [section] sections 802E-2 and 802E- and the defendant shows that conviction of the offense to which the defendant pleaded guilty or nolo contendere may have the consequences for the defendant of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States, on defendant’s motion, the

court shall vacate the judgment and permit the defendant to withdraw the plea of guilty or nolo contendere, and enter a plea of not guilty. Absent a record that the court provided the advisement required by this section, the defendant shall be presumed not to have received the required advisement.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on July 1, 2013.

(Became law on July 9, 2013, without the governor’s signature, pursuant to Art. III, §16, State Constitution.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 280

S.B. NO. 68

A Bill for an Act Relating to Sentencing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that since the enactment of mandatory minimum sentencing for drug users, the Federal Bureau of Prisons budget increased from \$220,000,000 in 1986 to \$5,400,000,000 in 2008. From 2000 to 2009, appropriations for the Hawaii department of public safety increased ninety per cent, from \$128,000,000 to \$243,000,000. Mandatory minimum sentences are statutorily prescribed terms of imprisonment that automatically attach upon conviction of certain criminal conduct, usually pertaining to drug or firearm offenses. Absent very narrow criteria for relief, a sentencing judge is powerless to mandate a term of imprisonment below the mandatory minimum. Mandatory minimum sentences for drug offenses rely solely upon the weight of the substance as a proxy for the degree of involvement of a defendant’s role. Nationwide, mandatory minimum sentences have consistently been shown to have a disproportionate impact on persons of color. The United States Sentencing Commission, in a fifteen-year overview of the federal sentencing system, concluded that “mandatory penalty statutes are used inconsistently” and disproportionately affect African American and other defendants of color. As a result, drug defendants of color are twenty per cent more likely to be sentenced to prison than white drug defendants. The department of public safety reports that Native Hawaiians comprise thirty-nine to forty per cent of Hawaii’s incarcerated population, while they represent only twenty-four per cent of the general population. According to the United States Department of Justice, the time spent in prison does not affect recidivism rates. Government surveys document that drug use is fairly consistent across racial and ethnic groups.

In the Anti-Drug Abuse Act of 1986, Congress structured anti-drug penalties to encourage the Department of Justice to concentrate its enforcement effort against high-level and major-level drug traffickers, and provided new, long mandatory minimum sentences for such offenders, correctly recognizing the federal role in the combined federal-state drug enforcement effort. Hawaii’s criminal justice approach to drug use is a significant contributor to the total number of people admitted to prison or jail. For example, in 2009 approximately two thousand persons were arrested for drug offenses in Hawaii, with seven hundred twenty-six persons sentenced to incarceration. Of the seven hundred twenty-six

persons incarcerated, thirty-two per cent were Native Hawaiians. According to the 2004 State of Hawaii treatment needs assessment program dataset, Native Hawaiians do not use drugs at widely dissimilar rates to other races or ethnicities.

The legislature further finds that linking drug quantity with punishment severity has had a particularly profound impact on women, who are more likely to play peripheral roles in a drug enterprise than men. However, because prosecutors can attach drug quantities to an individual regardless of the level of culpability of a defendant's participation in the charged offense, women have been exposed to increasingly punitive sentences. In 2000, the department of public safety reported that more than fifty-six per cent of Hawaii's incarcerated women were sentenced to mandatory prison terms. Low-level and mid-level drug offenders can be adequately prosecuted by the states and punished or supervised in treatment programs, as appropriate. Research has shown that community-based drug treatment is more effective both in economic and social terms than incarceration. Studies have estimated savings from \$10 to \$18 for every \$1 spent on community-based treatment.

It is widely acknowledged that the decades-long war on drugs is a failure. Federal and state drug enforcement resources are not being properly focused against high-level traffickers. In May 2007, the United States Sentencing Commission issued a report to Congress, stating that "[t]he majority of federal cocaine offenders generally perform low-level functions." In discussing drug abuse, the Director of the National Institute on Drug Abuse has stated, "This aberrant behavior has traditionally been viewed as bad 'choices' that are made voluntarily by the addict. However, recent studies have shown that repeated drug use leads to long-lasting changes in the brain that undermine voluntary control."

The purpose of this Act is to grant sentencing courts the discretion to sentence a defendant convicted in a class B or class C felony drug case to a prison sentence of a length appropriate to the defendant's particular offense and underlying circumstances.

SECTION 2. Section 706-660, Hawaii Revised Statutes, is amended to read as follows:

"§706-660 Sentence of imprisonment for class B and C felonies; ordinary terms[-]; discretionary terms. [A] (1) Except as provided in subsection (2), a person who has been convicted of a class B or class C felony may be sentenced to an indeterminate term of imprisonment except as provided for in section 706-660.1 relating to the use of firearms in certain felony offenses and section 706-606.5 relating to repeat offenders. When ordering such a sentence, the court shall impose the maximum length of imprisonment which shall be as follows:

[(1)] (a) For a class B felony—[10] ten years; and

[(2)] (b) For a class C felony—[5] five years.

The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669.

(2) A person who has been convicted of a class B or class C felony for any offense under part IV of chapter 712 may be sentenced to an indeterminate term of imprisonment; provided that this subsection shall not apply to sentences imposed under sections 706-606.5, 706-660.1, 712-1240.5, 712-1240.8, 712-1242, 712-1245, 712-1249.5, 712-1249.6, 712-1249.7, and 712-1257.

When ordering a sentence under this subsection, the court shall impose a term of imprisonment which shall be as follows:

(a) For a class B felony—ten years or less, but not less than five years; and

(b) For a class C felony—five years or less, but not less than one year.

The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2013.

(Became law on July 9, 2013, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

ACT 281

S.B. NO. 614

A Bill for an Act Relating to Public Works of Art.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to honor the memory of the late United States Senator Daniel K. Inouye and the late United States Representative Patsy T. Mink and to use their examples to inspire current and future generations.

SECTION 2. (a) The comptroller and the state foundation on culture and the arts shall commission a permanent, three-dimensional work of art to portray the life, vision, accomplishments, impact, and legacy of the late United States Senator Daniel K. Inouye so as to properly honor his memory and to utilize his example as an inspiration for current and future generations.

(b) The state foundation on culture and the arts, at the earliest opportunity, shall issue a call for design entries; provided that the design shall include but is not limited to a likeness of Daniel K. Inouye at some stage of his life.

(c) Notwithstanding any other law or rule to the contrary, the winning design shall be selected from among the design entries, in consultation with the state foundation on culture and the arts, by a three-member design selection committee to consist of:

- (1) A person selected by the governor;
- (2) A person selected by the president of the senate; and
- (3) A person selected by the speaker of the house of representatives.

(d) The state foundation on culture and the arts shall administer and provide technical oversight of the project.

(e) The state foundation on culture and the arts and the department of accounting and general services shall permanently install the work of art commemorating Daniel K. Inouye in time for unveiling on December 17, 2014, the second anniversary of his death.

SECTION 3. (a) The comptroller and the state foundation on culture and the arts shall commission a permanent work of art to portray the life, vision, accomplishments, impact, and legacy of the late United States Representative Patsy T. Mink so as to properly honor her memory and to utilize her example as an inspiration for current and future generations.

(b) The state foundation on culture and the arts, at the earliest opportunity, shall issue a call for design entries; provided that the design shall include but is not limited to a likeness of Patsy T. Mink at some stage of her life.

(c) Notwithstanding any other law or rule to the contrary, the winning design shall be selected from among the design entries, in consultation with the state foundation on culture and the arts, by a three-member design selection committee to consist of:

- (1) A person selected by the governor;
- (2) A person selected by the president of the senate; and
- (3) A person selected by the speaker of the house of representatives.

(d) The state foundation on culture and the arts shall administer and provide technical oversight of the project.

(e) The state foundation on culture and the arts, the selection committee, and the department of accounting and general services, in consultation with the state historic preservation division of the department of land and natural resources, shall select a suitable site for the work of art commemorating Patsy T. Mink.

SECTION 4. There is appropriated out of the works of art special fund the sum of \$250,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 for the comptroller and state foundation on culture and the arts to commission art pursuant to sections 2 and 3 of this Act.

The sums appropriated shall be expended by the department of accounting and general services for the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 2013.

(Became law on July 9, 2013, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

ACT 282

S.B. NO. 867

A Bill for an Act Relating to the Hawaii Employer-Union Health Benefits Trust Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 87A-33, Hawaii Revised Statutes, is amended to read as follows:

“§87A-33 State and county contributions; retired employees. (a) Notwithstanding any law to the contrary, this section shall apply to state and county contributions to the fund for:

- (1) The dependent-beneficiary of an employee who is killed in the performance of duty;
- (2) A dependent-beneficiary, upon the death of the employee-beneficiary, except as provided in section 87A-36;
- (3) An employee-beneficiary who retired after June 30, 1984, due to a disability falling within sections 88-79 and 88-285;
- (4) An employee-beneficiary who retired before July 1, 1984;
- (5) An employee-beneficiary who:
 - (A) Was hired before July 1, 1996;
 - (B) Retired after June 30, 1984; and

- (C) Who has ten years or more of credited service, excluding sick leave;
 - (6) An employee-beneficiary who:
 - (A) Was hired after June 30, 1996; and
 - (B) Retired with twenty-five or more years of credited service, excluding sick leave, except as provided in section 87A-36; and
 - (7) Employees who retired prior to 1961 and their dependent-beneficiaries.
- ~~[(b) Effective July 1, 2003, there is established a base monthly contribution for health benefit plans that the State, through the department of budget and finance, and the counties, through their respective departments of finance, shall pay to the fund, up to the following:~~
- ~~(1) \$218 for each employee-beneficiary enrolled in supplemental medicare self plans;~~
 - ~~(2) \$671 for each employee-beneficiary enrolled in supplemental medicare family plans;~~
 - ~~(3) \$342 for each employee-beneficiary enrolled in non-medicare self plans; and~~
 - ~~(4) \$928 for each employee-beneficiary enrolled in non-medicare family plans.~~

~~The monthly contribution by the State or county shall not exceed the actual cost of the health benefits plan or plans. If both husband and wife are employee-beneficiaries, the total contribution by the State or county shall not exceed the monthly contribution for a supplemental medicare family or non-medicare family plan, as appropriate.~~

~~(e) [(b) Effective [July] January 1, [2004,] 2014, there is established a base monthly contribution for health benefit plans that the State, through the department of budget and finance, and the counties, through their respective departments of finance, shall pay to the fund, up to the following:~~

- ~~(1) [\$254] \$524.73 for each employee-beneficiary enrolled in supplemental medicare self plans;~~
- ~~(2) [\$787] \$1,051.70 for each employee-beneficiary enrolled in supplemental medicare [family] two-party plans;~~
- ~~(3) [\$412] \$1,531.78 for each employee-beneficiary enrolled in [non-medicare self] supplemental medicare family plans; [and]~~
- ~~(4) [\$1,089] \$736.60 for each employee-beneficiary enrolled in non-medicare [family] self plans[-];~~
- ~~(5) \$1,484.72 for each employee-beneficiary enrolled in non-medicare two-party plans; and~~
- ~~(6) \$2,173.06 for each employee-beneficiary enrolled in non-medicare family plans.~~

~~The monthly contribution by the State or county shall not exceed the actual cost of the health benefit plan or plans and shall not be required to cover increased benefits above those initially contracted for by the fund for plan year 2004-2005. If both husband and wife are employee-beneficiaries, the total contribution by the State or county shall not exceed the monthly contribution for a supplemental medicare family or non-medicare family plan, as appropriate.~~

~~[(d) The base composite monthly contribution shall be adjusted annually, beginning July 1, 2005. The adjusted base composite monthly contribution for each new plan year (July 1 until June 30) shall be calculated by increasing or decreasing the base composite monthly contribution in effect through the end of the previous plan year by the percentage increase or decrease in the medicare part B premium rate for those years, which percentage shall be calculated by dividing the medicare part B premium rate in effect at the beginning of the new plan year by the rate in effect at the beginning of the previous plan year.~~

~~For the plan year beginning July 1, 2005, the adjusted base monthly contribution shall be computed using the actual contracted premium rate as of July 1, 2004, for medicare and non-medicare, self and family health benefits plans with the highest actual contracted premium rate as of July 1, 2004.~~

~~As used in this subsection, "medicare part B premium rate" means the rate published in the Federal Register each year on November 1 or on the business day closest to November 1 of each year after the medicare part B premium rate has been established by the Secretary of Health and Human Services and approved by the United States Congress.~~

~~(e)] (c) The base composite monthly contribution shall be adjusted annually, beginning January 1, [2013.] 2015. The adjusted base composite monthly contribution for each new plan year (January 1 until December 31) shall be calculated by increasing or decreasing the base composite monthly contribution in effect through the end of the previous plan year by the percentage increase or decrease in the medicare part B premium rate for those years, which percentage shall be calculated by dividing the medicare part B premium rate in effect at the beginning of the new plan year by the rate in effect at the beginning of the previous plan year.~~

~~[For the plan year beginning January 1, 2013, the adjusted base monthly contribution shall be computed using the base composite monthly contribution as of July 1, 2012.]~~

~~As used in this subsection, "medicare part B premium rate" means the rate published in the Federal Register each year on November 1 or on the business day closest to November 1 of each year after the medicare part B premium rate has been established by the United States Secretary of Health and Human Services and approved by the United States Congress.~~

~~[(f)] (d) If the board adopts a rate structure that provides for other than self and family rates for the health benefit plans, the base monthly contribution for the rate structure adopted by the board shall be adjusted to provide the equivalent underwriting cost as the base monthly contribution that is provided for in this section."~~

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on January 1, 2014.

(Became law on July 9, 2013, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

ACT 283

S.B. NO. 911

A Bill for an Act Making Appropriations for Collective Bargaining Cost Items.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$12,000,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 as a subsidy for Hawaii health systems corporation for employment costs.

The sums appropriated shall be expended by the Hawaii health systems corporation for the purposes of this Act.

SECTION 2. This Act shall take effect on July 1, 2013.

(Became law on July 9, 2013, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

ACT 284

S.B. NO. 966

A Bill for an Act Relating to the Uniform Mediation Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
UNIFORM MEDIATION ACT**

§ -1 **Short title.** This chapter may be cited as the Uniform Mediation Act.

§ -2 **Definitions.** In this chapter:
“International commercial mediation” means a process, whether referred to by the expression conciliation, mediation, or similar expression, whereby parties:

- (1) To an agreement to conciliation have, at the time of the conclusion of that agreement, their places of business in different countries; or
- (2) Who have their places of business in a country that is different from either the country in which a substantial part of the obligations of the commercial relationship is to be performed or the country with which the subject matter of the dispute is mostly closely connected, request a third person or persons, who do not have the authority to impose upon the parties a solution to the dispute, to assist them in their attempt to reach an amicable settlement of their dispute arising out of or relating to a contractual or other legal relationship.

“Mediation” means a process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute.

“Mediation communication” means a statement, whether oral, in a record, verbal, or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.

“Mediation party” means a person who participates in a mediation and whose agreement is necessary to resolve the dispute.

“Mediator” means an individual who conducts a mediation.

“Model law” means the Model Law on International Commercial Conciliation adopted by the United Nations Commission on International Trade Law on June 24, 2002, and recommended by the United Nations General Assembly in a resolution (A/RES/57/18) dated November 19, 2002.

“Nonparty participant” means a person, other than a party or mediator, who participates in a mediation.

“Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

“Proceeding” means:

- (1) A judicial, administrative, arbitral, or other adjudicative process, including related pre-hearing and post-hearing motions, conferences, and discovery; or
- (2) A legislative hearing or similar process.

“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“Sign” means to:

- (1) Execute or adopt a tangible symbol with the present intent to authenticate a record; or
- (2) Attach or logically associate an electronic symbol, sound, or process to or with a record with the present intent to authenticate a record.

§ -3 Scope. (a) Except as otherwise provided in subsection (b) or (c), this chapter applies to a mediation in which:

- (1) The mediation parties are required to mediate by statute or court or administrative rule or referred to mediation by a court, administrative agency, or arbitrator;
- (2) The mediation parties and the mediator agree to mediate in a record that demonstrates an expectation that mediation communications will be privileged against disclosure; or
- (3) The mediation parties use as a mediator an individual who holds himself or herself out as a mediator or the mediation is provided by a person who holds himself or herself out as providing mediation.
- (b) This chapter shall not apply to a mediation:
 - (1) Relating to the establishment, negotiation, administration, or termination of a collective bargaining relationship;
 - (2) Relating to a dispute that is pending under or is part of the processes established by a collective bargaining agreement, except that this chapter shall apply to a mediation arising out of a dispute that has been filed with an administrative agency or court;
 - (3) Conducted by a judge who might make a ruling on the case; or
 - (4) Conducted under the auspices of:
 - (A) A primary or secondary school if all the mediation parties are students; or
 - (B) A correctional institution for youths if all the mediation parties are residents of that institution.

(c) If the mediation parties agree in advance in a signed record, or a record of proceeding reflects agreement by the mediation parties, that all or part of a mediation is not privileged, the privileges under sections -4 through -6 shall not apply to the mediation or part agreed upon. However, sections -4 through -6 shall apply to a mediation communication made by a person that has not received actual notice of the agreement before the mediation communication is made.

§ -4 Privilege against disclosure; admissibility; discovery. (a) Except as provided in section -6, a mediation communication is privileged as provided in subsection (b) and is not subject to discovery or admissible in evidence in a proceeding unless waived or precluded as provided by section -5.

(b) In a proceeding, the following privileges apply:

- (1) A mediation party may refuse to disclose and may prevent any other person from disclosing a mediation communication;

- (2) A mediator may refuse to disclose a mediation communication, and may prevent any other person from disclosing a mediation communication of the mediator; and
- (3) A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a mediation communication of the nonparty participant.
- (c) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its disclosure or use in a mediation.

§ -5 Waiver and preclusion of privilege. (a) A privilege under section -4 may be waived in a record or orally during a proceeding if it is expressly waived by all parties to the mediation and:

- (1) In the case of the privilege of a mediator, it is expressly waived by the mediator; and
- (2) In the case of the privilege of a nonparty participant, it is expressly waived by the nonparty participant.
- (b) A person who discloses or makes a representation about a mediation communication that prejudices another person in a proceeding is precluded from asserting a privilege under section -4, but only to the extent necessary for the person prejudiced to respond to the representation or disclosure.
- (c) A person who intentionally uses a mediation to plan, attempt to commit or commit a crime, or to conceal an ongoing crime or ongoing criminal activity is precluded from asserting a privilege under section -4.

§ -6 Exceptions to privilege. (a) There is no privilege under section -4 for a mediation communication that is:

- (1) In an agreement evidenced by a record signed by all parties to the agreement;
- (2) Available to the public under chapter 92F or made during a session of a mediation that is open, or is required by law to be open, to the public;
- (3) A threat or statement of a plan to inflict bodily injury or commit a crime of violence;
- (4) Intentionally used to plan a crime, attempt to commit or commit a crime, or to conceal an ongoing crime or ongoing criminal activity;
- (5) Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator;
- (6) Except as provided in subsection (c), sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediation party, nonparty participant, or representative of a party based on conduct occurring during a mediation; or
- (7) Sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation in a proceeding in which a child or adult protective services agency is a party, unless the department of human services participates in the mediation.
- (b) There is no privilege under section -4 if a court, administrative agency, or arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, that there is a need for the evidence that substantially outweighs the interest in protecting confidentiality, and that the mediation communication is sought or offered in:

- (1) A court proceeding involving a felony or misdemeanor; or

- (2) Except as provided in subsection (c), a proceeding to prove a claim to rescind or reform, or a defense to avoid, liability on a contract arising out of the mediation.

(c) A mediator shall not be compelled to provide evidence of a mediation communication referred to in subsection (a)(6) or (b)(2).

(d) If a mediation communication is not privileged under subsection (a) or (b), only the portion of the mediation communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under subsection (a) or (b) does not render the evidence, or any other mediation communication, discoverable or admissible for any other purpose.

§ -7 Prohibited mediator reports. (a) Except as agreed to in writing by the parties or as permitted in subsection (b), a mediator shall not make a report, assessment, evaluation, recommendation, finding, or other communication regarding a mediation to a court, administrative agency, or other authority that may make a ruling on the dispute that is the subject of the mediation.

(b) A mediator may disclose:

- (1) Whether a mediation occurred or has terminated, whether a settlement was reached, and attendance at the mediation;
- (2) Mediation communication as permitted under section -6; or
- (3) A mediation communication evidencing abuse, neglect, abandonment, or exploitation of an individual to a public agency responsible for protecting individuals against such mistreatment, except as prohibited under section -6(a)(7).

(c) A report, assessment, evaluation, recommendation, finding, or other communication made in violation of subsection (a) shall not be considered by a court, administrative agency, or arbitrator.

§ -8 Confidentiality. Unless subject to disclosure pursuant to part I of chapter 92 or chapter 92F, mediation communications are confidential to the extent agreed by the mediation parties or provided by other law or rule of this State.

§ -9 Mediator's disclosure of conflicts of interest; background. (a) Before accepting a mediation, an individual who is requested to serve as a mediator shall:

- (1) Make an inquiry that is reasonable under the circumstances to determine whether there are any known facts that a reasonable individual would consider likely to affect the impartiality of the mediator, including a financial or personal interest in the outcome of the mediation and an existing or past relationship with a mediation party or foreseeable mediation party or nonparty participant in the mediation; and
 - (2) Disclose any such known fact to the mediation parties as soon as is practical before accepting a mediation.
- (b) If a mediator learns any fact described in subsection (a)(1) after accepting a mediation, the mediator shall disclose it as soon as is practicable.

(c) At the request of a mediation party, an individual who is requested to serve as a mediator shall disclose the mediator's qualifications to mediate a dispute.

(d) A person who violates subsection (a) or (b) is precluded by the violation from asserting a privilege under section -4.

(e) Subsections (a), (b), and (c) do not apply to an individual acting as a judge.

(f) This chapter does not require that a mediator have a special qualification by background or profession.

§ -10 Participation in mediation. An attorney or other individual designated by a party may accompany the party to and participate in a mediation. A waiver of participation given before the mediation may be rescinded.

§ -11 International commercial mediation. (a) Except as provided in subsections (b) and (c), if a mediation is an international commercial mediation, the mediation is governed by the model law.

(b) Unless the mediation parties agree in accordance with section -3(c) that all or part of an international commercial mediation is not privileged, sections -4, -5, and -6 and any applicable definitions in section -2 also apply to the mediation and nothing in article 10 of the model law derogates from sections -4, -5, and -6.

(c) If the parties to an international commercial mediation agree under article 1, subsection 7, of the model law that the model law does not apply, this chapter applies in its entirety.

§ -12 Relation to Electronic Signatures in Global and National Commerce Act. This chapter modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code Section 7001 et seq.; provided that this chapter shall not modify, limit, or supersede Section 101(c) of that Act or authorize electronic delivery of any of the notices described in Section 103(b) of that Act.

§ -13 Application to existing agreements or referrals. (a) This chapter shall govern a mediation pursuant to a referral for mediation or an agreement to mediate made on or after July 1, 2013.

(b) On or after January 1, 2014, this chapter shall govern an agreement to mediate whenever made."

SECTION 2. This Act shall take effect on July 1, 2013.

(Became law on July 9, 2013, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

ACT 285

S.B. NO. 1214

A Bill for an Act Relating to Transportation.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. Section 26-19, Hawaii Revised Statutes, is amended to read as follows:

"§26-19 Department of transportation. The department of transportation shall be headed by a single executive to be known as the director of transportation. The department shall establish, maintain, and operate transportation facilities of the State, including highways, airports, harbors, and such other transportation facilities and activities as may be authorized by law.

The department shall plan, develop, promote, and coordinate various transportation systems management programs that shall include, but not be

limited to, alternate work and school hours programs, bicycling programs, and ridesharing programs.

The department shall develop and promote ridesharing programs which shall include but not be limited to, carpool and vanpool programs, and may assist organizations interested in promoting similar programs, arrange for contracts with private organizations to manage and operate these programs, and assist in the formulation of ridesharing arrangements. Ridesharing programs include informal arrangements in which two or more persons ride together in a motor vehicle.

The functions and authority heretofore exercised by the department of public works with respect to highways are transferred to the department of transportation established by this chapter.

On July 1, 1961, the Hawaii aeronautics commission, the board of harbor commissioners and the highway commission shall be abolished and their remaining functions, duties, and powers shall be transferred to the department of transportation.

~~Upon the abolishment of the Hawaii aeronautics commission, the board of harbor commissioners, and the highway commission, there shall be established within the department of transportation a commission to be known as the commission on transportation which shall sit in an advisory capacity to the director of transportation on matters within the jurisdiction of the department of transportation. The commission on transportation shall consist of not more than eleven members, with the number of members from each county insofar as practicable being approximately proportional to the population of the respective counties to the population of the State; provided that each of the four counties shall be represented by at least one member.]~~

PART II

SECTION 2. Chapter 291C, Hawaii Revised Statutes, is amended by adding a new section to part XI to be appropriately designated and to read as follows:

“§291C- Wheel boots prohibited. (a) It shall be unlawful for a person or entity, including any county police department, to apply or cause to be applied, a wheel boot to a motor vehicle located on any public or private street, roadway, or highway, as applicable, or on any public or private property, as applicable.

(b) For purposes of this section, “wheel boot” includes a tire lock, denver boot, wheel clamp, or wheel immobilizer.

(c) Any person, entity, or police department violating this section shall be fined \$100 for each application of a wheel boot.”

PART III

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Became law on July 9, 2013, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Contracts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 523A-25, Hawaii Revised Statutes, is amended to read as follows:

“§523A-25 Agreement to locate property. (a) An agreement by an owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property that is presumed abandoned shall be void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is twenty-four months after the date the property is paid or delivered to the administrator. ~~[This subsection does not apply to an owner's agreement with an attorney to file a claim as to identified property or contest the administrator's denial of a claim.]~~

(b) An agreement by an owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property shall be enforceable only if the agreement is in writing, clearly sets forth the nature of the property and the services to be rendered, is signed by the apparent owner, and states the value of the property before and after the fee or other compensation has been deducted.

(c) If an agreement covered by this section applies to mineral proceeds and the agreement contains a provision to pay compensation that includes a portion of the underlying minerals or any mineral proceeds not then presumed abandoned, the provision shall be void and unenforceable.

(d) An agreement covered by this section that provides for compensation that exceeds ~~[ten]~~ twenty-five per cent of the total value of the property shall be unenforceable except by the owner. An owner who has agreed to pay compensation that exceeds ~~[ten]~~ twenty-five per cent of the total value of the property, or the administrator on behalf of the owner, may maintain an action to reduce the compensation to an amount not to exceed ~~[ten]~~ twenty-five per cent of the total value of the property. The court may award reasonable attorney's fees to an owner who prevails in the action.

(e) This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than excessive or unjust compensation. The court may award reasonable attorney's fees to an owner who prevails in the action.

(f) This section does not apply to an owner's agreement with an attorney to file a claim as to identified property or contest the administrator's denial of a claim; provided that:

- (1) An owner's agreement with an attorney covered by this subsection that provides for compensation shall not exceed twenty-five per cent of the total value of the property, except as provided in paragraph (2); and
- (2) An owner's agreement with an attorney to maintain an action in circuit court under section 523A-16 may provide for compensation that exceeds twenty-five per cent of the total value of the property only upon approval of the court.”

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2013.

(Became law on July 9, 2013, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

ACT 287

S.B. NO. 3

A Bill for an Act Relating to the Office of Hawaiian Affairs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The board of trustees of the office of Hawaiian affairs is elected through a series of special elections held in conjunction with the biennial general election process. This special election process differs substantially from other elections because it lacks a primary election.

The lack of a primary election may create a large pool of trustee candidates competing in the general election. This may be problematic if more ballots are cast and dispersed among a number of unsuccessful candidates compared to the total number of ballots cast for winners. This outcome has occurred in each at-large trustee seat election since 1998 and has occurred in a number of island representative trustee seat elections.

In 2000, the general election ballot listed fifty-one candidates for three trustee at-large seats. The successful candidates won with only 6.8, 5.4, and 4.1 per cent of the total votes cast, respectively, while the rest of the votes were dispersed among the other candidates. Similarly, in 2006, there were fourteen candidates listed for three open trustee seats with the winners receiving 10.7, 9.8, and 8.5 per cent of the total votes cast, respectively. This pattern continued in 2012 when the winner out of six candidates vying for one at-large trustee seat received 23.8 per cent of the entire votes. The majority of the votes were cast for and dispersed among the other five candidates.

Furthermore, because the pool of trustee candidates is not narrowed by a primary election, incumbent trustees may be provided an unfair advantage. A number of studies have shown that incumbent candidates for any political office hold a distinct advantage over challengers. Under the special election process for the board of trustees of the office of Hawaiian affairs, incumbent candidates may hold an even greater advantage due to the larger number of candidates vying for a few open seats.

The legislature finds that implementing a primary election will address this problem by narrowing the pool of trustee candidates eligible in the general election, thereby limiting the dispersion of votes cast among a large pool of candidates. As a result, the successful candidate will receive votes from the majority of the electorate. Furthermore, establishing a primary election process will cost little for the office of elections to implement as costs should be neutralized as a result of eliminating the existing special election process.

The purpose of this Act is to repeal the special election process for the election of office of Hawaiian affairs board of trustee members and establish a system of nonpartisan primary and general elections to begin with the 2014 elections.

SECTION 2. Section 13D-4, Hawaii Revised Statutes, is amended to read as follows:

“[§13D-4] Election of board members. [Members] (a) Beginning January 1, 2014, members of the board of trustees shall be [elected at a special election held in conjunction with] nominated at a primary election and elected at the general election in every even-numbered year. Except as otherwise provided by this chapter, members shall be nominated and elected in the manner prescribed by this title.

[Nomination papers.] (b) The chief election officer shall prepare the nomination papers in such a manner that a candidate desiring to file for election to the

board shall be able to specify whether the candidate is seeking a seat requiring residency on a particular island or a seat without ~~[such]~~ a residency requirement.

~~[Ballot.] (c) The board of trustees ballot shall be prepared in such a manner that every voter qualified and registered under section 13D-3 shall be afforded the opportunity to vote for each and every candidate seeking election to the board. The ballot shall contain the names of all board candidates arranged [alphabetically]; provided that the names of candidates seeking seats requiring residency on a particular island shall also be grouped by island of residency. Each eligible voter shall be entitled to receive the board of trustees ballot and to vote for the number of seats available.] in accordance with section 11-115.~~

(d) Each voter registered to vote in the general election shall be entitled to receive the office of Hawaiian affairs ballot and to vote for the number of seats available on the respective islands.

(e) Any election with only one available seat without a residency requirement or for any available seat requiring residency on a particular island shall be conducted as follows:

- (1) If, after the close of filing of nomination papers, there is only one qualified candidate for any available seat, the chief election officer shall declare the candidate to be duly and legally elected, and the names of that candidates shall not appear on the primary or the general election ballot;
- (2) If, after the close of filing nomination papers, there are only two qualified candidates for any available seat, the chief election officer shall declare those two candidates duly nominated for the general election. The names of those two candidates shall not appear on the primary election ballot; and
- (3) If, at the close of filing of nomination papers, there are three or more qualified candidates for any available seat, the names of those candidates shall be listed on the primary election ballot. The two candidates receiving the highest number of votes for each available seat shall be nominated at the primary election for the general election; provided that if any candidate receives more than fifty per cent of the total votes cast for the available seat at the primary election, the chief election officer shall declare that candidate to be duly and legally elected and the name of that candidate shall not appear on the general election ballot.

(f) Any election with three available seats without a residency requirement shall be conducted as follows:

- (1) If, after the close of filing of nomination papers, there are only three or less qualified candidates for the available seats without a residency requirement, the chief election officer shall declare those candidates to be duly and legally elected and the names of those candidates shall not appear on the primary or general election ballot;
- (2) If, after the close of filing of nomination papers, there are four, five, or six qualified candidates for the available seats without a residency requirement, the chief election officer shall declare those candidates duly nominated for the general election. The names of those candidates shall not appear on the primary election ballot; and
- (3) If, at the close of filing of nomination papers, there are seven or more qualified candidates for the available seats without a residency requirement, the names of those candidates shall be listed on the primary election ballot. The qualified candidates receiving the highest number of total votes at the primary election shall be declared by the chief election officer duly nominated for the general election

provided that the general election shall include no more than twice the number of qualified candidates as seats available; provided further that if any candidate receives more than fifty per cent of the total votes cast for the available seats at the primary election, the chief election officer shall declare that candidate to be duly and legally elected and the name of that candidate shall not appear on the general election ballot."

SECTION 3. Section 13D-5, Hawaii Revised Statutes, is amended to read as follows:

"§13D-5 Term of office; vacancies. The term of office of members of the board shall be four years beginning on the day of ~~[the special election held in conjunction with]~~ the general election ~~[of the year in]~~ at which they are elected, or if elected at a primary election, on the day of the general election immediately following the primary election at which they are elected, and ending on the day of ~~[the special election held in conjunction with]~~ the second general election after their election; except that the term of office of board members elected in 1980 shall be as follows: the four board members elected with the highest number of votes shall serve four years; the remaining members elected shall serve two years]. Members of the board may be re-elected without restriction as to the number of terms.

Any vacancy that may occur through any cause other than the expiration of the term of office shall be filled in accordance with section 17-7."

SECTION 4. Section 17-7, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Whenever any vacancy in the membership of the board of trustees occurs, the term of which ends at the next succeeding ~~[special election held in conjunction with the]~~ general election, the vacancy shall be filled by a two-thirds vote of the remaining members of the board. If the board fails to fill the vacancy within sixty days after it occurs, the governor shall fill the vacancy within ninety days after the vacancy occurs. When island residency is required under section 13D-1, the person so appointed shall reside on the island from which the vacancy occurred, and shall serve for the duration of the unexpired term.

(b) In the case of a vacancy, the term of which does not end at the next succeeding ~~[special election held in conjunction with the]~~ general election:

- (1) If it occurs not later than on the ~~[seventy-fifth]~~ ninetieth day prior to the next succeeding ~~[special election held in conjunction with the general]~~ primary election, the vacancy shall be filled for the unexpired term at the next succeeding ~~[special election held in conjunction with the]~~ general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall file nomination papers not later than ~~[4:30 p.m. on the sixtieth day prior to the special election (but if such day is a Saturday, Sunday, or holiday then not later than 4:30 p.m. on the first working day immediately preceding)]~~ and shall ~~be~~ be the date and time specified in section 12-6 and shall be nominated and elected in accordance with this title. Pending the election, the board or the governor shall make a temporary appointment to fill the vacancy in the manner prescribed under subsection (a). When island residency is required under section 13D-1, the person so appointed shall reside on the island from which the vacancy occurred, and shall serve for the duration of the unexpired term and

shall serve until the election of the person duly elected to fill such vacancy.

- (2) If it occurs after the ~~[seventy-fifth]~~ ninetieth day prior to the next succeeding ~~[special election held in conjunction with the general]~~ primary election, the board or the governor shall make an appointment to fill the vacancy in the manner prescribed under subsection (a). When island residency is required under section 13D-1, the person so appointed shall reside on the island from which the vacancy occurred, and shall serve for the duration of the unexpired term."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Became law on July 9, 2013, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

ACT 288

S.B. NO. 1388

A Bill for an Act Relating to the Research Corporation of the University of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that concerns have been raised that the research corporation of the University of Hawaii and its board of directors' current authority and flexibility are other than originally intended.

Accordingly, the purpose of this Act is to clarify:

- (1) The composition of the membership of the board of directors of the research corporation of the University of Hawaii;
- (2) The role of the research corporation of the University of Hawaii and its board of directors;
- (3) The relationship between the board of directors and the University of Hawaii system; and
- (4) The authorization of the board of directors with respect to the employment of an executive director and construction contracts.

SECTION 2. Section 304A-3002, Hawaii Revised Statutes, is amended to read as follows:

"[H§304A-3002]] Board of directors; composition. The affairs of the research corporation shall be under the general management and control of the board of directors. The board of directors shall consist of ~~[ten]~~ eight members~~[- Five]~~ as follows:

- (1) Two members of the board of regents of the University of Hawaii, selected by the board of regents~~[- shall be members of the board of directors]~~ for terms to be determined by the board of regents; provided that no term shall extend beyond the term as a member of the board of regents~~[- The remaining five];~~
- (2) Three members ~~[shall]~~ to be appointed by the governor pursuant to section 26-34~~[-]; provided that:~~
 - (A) One member shall be a University of Hawaii system research faculty member;

- (B) One member shall be from the business sector; and
- (C) One member shall be a representative of a non-University of Hawaii research organization;
- (3) One member to be appointed by the president of the senate;
- (4) One member to be appointed by the speaker of the house of representatives; and
- (5) The vice president for research of the University of Hawaii system, who shall be a nonvoting ex officio member of the board of directors.

All the members appointed by the governor, president of the senate, and speaker of the house of representatives shall serve for a term of four years, except that the governor may reduce the terms of those initially appointed [sø-as] to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year, each term commencing on July 1 and expiring on June 30. All members of the board of directors shall serve without pay, but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities.

The members of the board of directors shall elect the chairperson of the board."

SECTION 3. Section 304A-3005, Hawaii Revised Statutes, is amended to read as follows:

"[§304A-3005] Research corporation excepted from certain state laws.

To carry out the purposes and objectives of the research corporation, including the conduct of research and training projects, the research corporation shall be granted flexibility in hiring its personnel and in handling and disbursing moneys by being excepted from the following state laws:

- (1) Sections 36-27 and 36-30, relating to special fund reimbursements to the state general fund;
- (2) Chapter 103D, relating to advertising for bids and purchases to be made in Hawaii whenever public moneys are expended;
- (3) Chapter 103D with respect to construction contracts; provided that the exception shall not apply where state funds are used and compliance with chapter 103D is required by a bill enacted by the legislature;
- [§3] (4) Chapter 76, relating to civil service; and
- [§4] (5) Section 78-1, relating to public employment."

SECTION 4. Section 304A-3006, Hawaii Revised Statutes, is amended to read as follows:

"[§304A-3006] Officers and employees of the research corporation. ~~[The president of the university shall be the president of the research corporation.]~~ The board of directors shall employ an executive director of the research corporation who shall serve at the pleasure of the board of directors. The executive director's salary shall not be more than two times the salary of the highest paid head of a department within the executive branch. The board of directors may also appoint [such] other officers and employees as may be necessary in administering the affairs of the research corporation. The board of directors shall set the employees' duties, responsibilities, salaries, holidays, vacations, leaves, hours of work, and working conditions. The board of directors may grant [such] other benefits to its employees as it deems necessary. Employees of the research corporation shall not be entitled to any benefits conferred under chapter 76 relating to

civil service, chapter 78 relating to public service, chapter 88 relating to pension and retirement systems, and the appropriate collective bargaining agreement, executive order, executive directive, or rule.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Became law on July 9, 2013, without the governor's signature, pursuant to Art. III, §16, State Constitution.)

PROPOSED CONSTITUTIONAL AMENDMENTS

S.B. NO. 886

A Bill for an Act Proposing an Amendment to Article VI, Section 3, of the Hawaii State Constitution to Increase the Mandatory Retirement Age for State Justices and Judges.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to propose an amendment to article VI, section 3, of the Constitution of the State of Hawaii to increase the mandatory retirement age for justices and judges to the age of eighty years.

SECTION 2. Article VI, section 3, of the Constitution of the State of Hawaii is amended to read as follows:

“APPOINTMENT OF JUSTICES AND JUDGES

Section 3. The governor, with the consent of the senate, shall fill a vacancy in the office of the chief justice, supreme court, intermediate appellate court and circuit courts, by appointing a person from a list of not less than four, and not more than six, nominees for the vacancy, presented to the governor by the judicial selection commission.

If the governor fails to make any appointment within thirty days of presentation, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. If the senate fails to reject any appointment within thirty days thereof, it shall be deemed to have given its consent to such appointment. If the senate shall reject any appointment, the governor shall make another appointment from the list within ten days thereof. The same appointment and consent procedure shall be followed until a valid appointment has been made, or failing this, the commission shall make the appointment from the list, without senate consent.

The chief justice, with the consent of the senate, shall fill a vacancy in the district courts by appointing a person from a list of not less than six nominees for the vacancy presented by the judicial selection commission. If the chief justice fails to make the appointment within thirty days of presentation, or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the judicial selection commission from the list with the consent of the senate. The senate shall hold a public hearing and vote on each appointment within thirty days of any appointment. If the senate fails to do so, the nomination shall be returned to the commission and the commission shall make the appointment from the list without senate consent. The chief justice shall appoint per diem district court judges as provided by law.

QUALIFICATIONS FOR APPOINTMENT

Justices and judges shall be residents and citizens of the State and of the United States, and licensed to practice law by the supreme court. A justice of the supreme court, a judge of the intermediate appellate court and a judge of the circuit court shall have been so licensed for a period of not less than ten years preceding nomination. A judge of the district court shall have been so licensed for a period of not less than five years preceding nomination.

PROPOSED CONSTITUTIONAL AMENDMENTS

No justice or judge shall, during the term of office, engage in the practice of law, or run for or hold any other office or position of profit under the United States, the State or its political subdivisions.

TENURE; RETIREMENT

The term of office of justices and judges of the supreme court, intermediate appellate court and circuit courts shall be ten years. Judges of district courts shall hold office for the periods as provided by law. At least six months prior to the expiration of a justice's or judge's term of office, every justice and judge shall petition the judicial selection commission to be retained in office or shall inform the commission of an intention to retire. If the judicial selection commission determines that the justice or judge should be retained in office, the commission shall renew the term of office of the justice or judge for the period provided by this section or by law.

Justices and judges shall be retired upon attaining the age of [seventy] eighty years. They shall be included in any retirement law of the State."

SECTION 3. The question to be printed on the ballot shall be as follows: "Shall the mandatory retirement age for all state court justices and judges be increased from seventy to eighty years of age?"

SECTION 4. Constitutional material to be repealed is bracketed and stricken. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

S.B. NO. 1084

A Bill for an Act Proposing an Amendment to Article X, Section 1, of the Hawaii State Constitution to Permit the Appropriation of Public Funds for Private Early Childhood Education Programs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to propose an amendment to article X, section 1, of the Hawaii state constitution to permit the appropriation of public funds for private early childhood education programs to help the State meet its goal of providing an early learning system for the children of Hawaii.

SECTION 2. Article X, section 1, of the Constitution of the State of Hawaii is amended to read as follows:

"PUBLIC EDUCATION

Section 1. The State shall provide for the establishment, support and control of a statewide system of public schools free from sectarian control, a state university, public libraries and such other educational institutions as may be deemed desirable, including physical facilities therefor. There shall be no discrimination in public educational institutions because of race, religion, sex or ancestry; nor shall public funds be appropriated for the support or benefit of any sectarian or nonsectarian private educational institution, except that public funds may be appropriated for the support or benefit of private early childhood education programs, subject to the non-discrimination provision above, as pro-

PROPOSED CONSTITUTIONAL AMENDMENTS

vided by law, and that proceeds of special purpose revenue bonds authorized or issued under section 12 of Article VII may be appropriated to finance or assist:

1. Not-for-profit corporations that provide early childhood education and care facilities serving the general public; and
2. Not-for-profit private nonsectarian and sectarian elementary schools, secondary schools, colleges and universities.”

SECTION 3. The question to be printed on the ballot shall be as follows: “Shall the appropriation of public funds be permitted for the support or benefit of private early childhood education programs that shall not discriminate on the basis of race, religion, sex or ancestry, as provided by law?”

SECTION 4. New constitutional material is underscored.

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

**COMMITTEE REPORTS ON BILLS ENACTED
AND PROPOSED CONSTITUTIONAL AMENDMENTS**

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1. See also Senate Floor Amendment 9.
2. See also House Floor Amendment 14.
3. See also Senate Floor Amendment 3.
4. See also Senate Floor Amendment 6.
5. See also Senate Floor Amendment 14 and House Floor Amendment 24.

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Twenty-Seventh State Legislature
2013 Regular Session

Key: Am = Amended _____ = Section number
N = New to be assigned in
R = Repealed HRS Supplement
Sp = Special Session

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1. Should be 711-1100.

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